

# **EXHIBIT 5 (Part 2)**

EXHIBIT B

SUBSEQUENT PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

**INMATE  
COPY**

In the matter of the Life )  
Term Parole Consideration )  
Hearing of: )  
KENNETH DOWELL )  
\_\_\_\_\_ )

CDC Number C-78669

SAN QUENTIN STATE PRISON

SAN QUENTIN, CALIFORNIA

NOVEMBER 30, 2006

10:51 A.M.

PANEL PRESENT:

Ms. Janice Eng, Presiding Commissioner  
Mr. Doug Filangeri, Deputy Commissioner  
J. Vieira, Board of Parole Hearings, Observer

OTHERS PRESENT:

Mr. Kenneth Dowell, Inmate  
Ms. Anne Hawkins, Attorney for Inmate  
Mr. James Jacobs, Deputy District Attorney  
(via videoconference)  
Correctional Officer(s), Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

\_\_\_\_\_  
No  
\_\_\_\_\_  
Yes

See Review of Hearing  
Transcript Memorandum

BERENICE BILLINGTON

NORTHERN CALIFORNIA COURT REPORTERS

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1

P R O C E E D I N G S

PRESIDING COMMISSIONER ENG: -- Parole

Consideration Hearing for Kenneth Dowell,  
D-O-W-E-L-L, CDC number C-78669. Today's date is  
November 30<sup>th</sup>, 2006, and the time is 10:51 a.m. We  
are located at San Quentin State Prison. The  
inmate was received on December 30<sup>th</sup>, 1983, from  
Los Angeles County. His life term began on  
December 30<sup>th</sup>, 1983, with a minimum eligible parole  
date of July 6<sup>th</sup>, 1992. The controlling offense  
for which the inmate has been committed is Murder  
Two, case number A454394, count one, Penal Code  
187 -- let's see, with a Shotgun, and then there's  
another non-controlling offense, count one, Penal  
Code 266.1, Pandering, and that was on February  
7<sup>th</sup>, 1980. The inmate received a total term of 15  
years to life. This hearing is being tape  
recorded, and for the purpose of voice  
identification each of us will be required to  
state our first and last names, spelling out our  
last name, and sir, when it comes to your turn,  
once you've spelled out your last name, please  
also provide us with your CDC number. So I will  
begin and we'll move to my right, and don't  
forget, we have to -- we've got the Deputy DA on  
video. My name is Janice Eng, E-N-G,  
Commissioner.

2

1           DEPUTY COMMISSIONER FILANGERI: Doug  
2     Filangeri, F-I-L-A-N-G-E-R-I, Deputy Commissioner.

3           DEPUTY DISTRICT ATTORNEY JACOBS: James  
4     Jacobs, J-A-C-O-B-S, Deputy District Attorney, Los  
5     Angeles County.

6           PRESIDING COMMISSIONER ENG: Mr. Dowell?

7           INMATE DOWELL: Dowell, D-O-W-E-L-L, C  
8     number, C-78669.

9           PRESIDING COMMISSIONER ENG: First name?

10          INMATE DOWELL: Kenneth.

11          PRESIDING COMMISSIONER ENG: Okay. Thank  
12     you.

13          ATTORNEY HAWKINS: Anne Hawkins,  
14     H-A-W-K-I-N-S, on behalf of Mr. Dowell.

15          PRESIDING COMMISSIONER ENG: Okay. Go  
16     ahead.

17          MS. VIEIRA: J. Vieira, V-I-E-I-R-A, Board  
18     of Parole Hearings, observing.

19          PRESIDING COMMISSIONER ENG: Okay. Thank

20     you. For the record, we have two correctional  
21     officers present for security reasons and they  
22     will not be participating in the hearing. Before  
23     we begin, sir, I'd like you to read aloud the ADA  
24     Rights and Self-Identification Statement in front  
25     of you. You can begin at any time.

26          INMATE DOWELL: Okay.

1 "The American with Disabilities Act,  
2 ADA, is a law to help people with  
3 disabilities. Disabilities are  
4 problems that make it harder for  
5 some people to see, hear, breathe,  
6 talk, walk, learn, think, work, or  
7 take care of themselves than it is  
8 for others. Nobody can be kept out  
9 of public places or activities  
10 because of a disability. If you  
11 have a disability, you have the  
12 right to help -- to ask for help to  
13 get ready for your BPT Board  
14 Hearing, get to the hearing, talk,  
15 read forms and papers and understand  
16 the hearing process. BPT will look  
17 at what you ask for to make sure  
18 that you have a disability that is  
19 covered by the ADA and that you have  
20 asked for the right kind of help.  
21 If you do not get help or if you  
22 don't think you got the kind of help  
23 you need, ask for the -- for a BPT  
24 1074 Grievance Form. You can also  
25 get help to fill it out."  
26 PRESIDING COMMISSIONER ENG: Okay. Thank  
27 you. The record reflects that you did sign the

4

1 BPT Form 1073 on July 26<sup>th</sup>, 2006, and this form is  
2 a Reasonable Accommodation Notice and Request in  
3 accordance with the provisions of the Americans  
4 with Disabilities Act, and it indicates that you  
5 have checked off that you do not have any  
6 disabilities under the ADA. Is that true, sir?

7 INMATE DOWELL: I'm dyslexic.

8 PRESIDING COMMISSIONER ENG: You're  
9 dyslexic.

10 INMATE DOWELL: Yeah.

11 PRESIDING COMMISSIONER ENG: Okay.

12 However--

13 INMATE DOWELL: But --

14 PRESIDING COMMISSIONER ENG: -- you did  
15 check off that according to the ADA, though, that  
16 you don't --

17 INMATE DOWELL: Yeah.

18 PRESIDING COMMISSIONER ENG: -- have any  
19 problems. So I just wanted to be sure that the  
20 information is current and correct.

21 INMATE DOWELL: I don't know. There's no  
22 disabilities that enhanders [sic] from  
23 participating in this hearing.

24 PRESIDING COMMISSIONER ENG: Right. And  
25 that's the important part. Okay. So I still have  
26 to go through some basic questions regarding ADA--

27 INMATE DOWELL: Yeah.



5

1           PRESIDING COMMISSIONER ENG:   -- okay?

2           INMATE DOWELL:   Right.

3           PRESIDING COMMISSIONER ENG:   So do you have  
4 any problems walking up or down stairs or for  
5 distances of 100 yards or more?

6           INMATE DOWELL:   No.

7           PRESIDING COMMISSIONER ENG:   Okay.   And I  
8 see that you do have glasses.   And are those for  
9 reading and distance?

10          INMATE DOWELL:   Yes.

11          PRESIDING COMMISSIONER ENG:   And are those  
12 sufficient for you to be able to read any  
13 documents if necessary during the hearing?

14          INMATE DOWELL:   Yes.

15          PRESIDING COMMISSIONER ENG:   Okay.   And do  
16 you have any hearing impairments?

17          INMATE DOWELL:   No.

18          PRESIDING COMMISSIONER ENG:   Okay.   Have you  
19 ever been included in the Triple CMS or the EOP  
20 programs?

21          INMATE DOWELL:   No, I have not.

22          PRESIDING COMMISSIONER ENG:   And you know  
23 what those are?

24          INMATE DOWELL:   Yes, I do.

25          PRESIDING COMMISSIONER ENG:   So do you  
26 suffer from any disability that would prevent you  
27 from participating in today's hearing?

6

1 INMATE DOWELL: Not that I'm aware of.

2 PRESIDING COMMISSIONER ENG: Okay. Good.

3 Counselor, are there any ADA issues that you  
4 believe need further discussion regarding your  
5 client's ability to go on with the hearing?

6 ATTORNEY HAWKINS: No.

7 PRESIDING COMMISSIONER ENG: Okay. Okay.

8 So this hearing is being conducted pursuant to the  
9 Penal Code and the rules and regulations of the  
10 Board of Parole Hearings governing parole  
11 consideration hearings for life inmates. The  
12 purpose of today's hearing is to once again  
13 consider your suitability for parole. In doing so  
14 we'll consider the number and nature of the crimes  
15 for which you were committed, your prior criminal  
16 and social history, your behavior and programming  
17 since your commitment, and your plans if released.  
18 We've had the opportunity to review your Central  
19 File, and you'll also be given an opportunity to  
20 correct or clarify the record. We will consider  
21 your progress since your commitment, your  
22 counselor's reports, and your mental health  
23 evaluation. We'll focus on your progress and any  
24 new reports since your last hearing, so any change  
25 in the parole plans should be brought to our  
26 attention. We'll reach a decision today and  
27 inform you whether or not we find you suitable for

7

1 parole and the reasons for our decision. So if  
2 you are found suitable for parole, the length of  
3 your confinement will be fully explained to you at  
4 that time. Before we recess for deliberation --  
5 deliberations, the District Attorney's  
6 representative, your attorney and you yourself  
7 will have an opportunity to provide us with a  
8 final statement. Just be sure that in your final  
9 statement that you focus on your suitability for  
10 parole. We'll then recess, clear the room and  
11 deliberate. And once we've completed our  
12 deliberations, we'll resume the hearing and  
13 announce our decision. California Code of  
14 Regulations states that regardless of time served,  
15 a life inmate shall be found unsuitable for and  
16 denied parole if in the judgment of the panel the  
17 inmate would pose an unreasonable risk of danger  
18 to society if released from prison. So you have  
19 certain rights. Those rights include the right to  
20 a timely notice of this hearing, the right to  
21 review your Central File, and the right to present  
22 relevant documents. So Counselor, has your --  
23 have your client's rights been met?

24 ATTORNEY HAWKINS: Yes.

25 PRESIDING COMMISSIONER ENG: Okay. So you  
26 have an additional right to be heard by an  
27 impartial panel. You've been introduced to the

8

1 panel. Do you have any objections to this panel?

2 INMATE DOWELL: No, I have no objection to  
3 it.

4 PRESIDING COMMISSIONER ENG: Counselor, do  
5 you have any objections to the panel?

6 ATTORNEY HAWKINS: No.

7 PRESIDING COMMISSIONER ENG: So you will  
8 receive a copy of our written tentative decision  
9 today. That decision becomes final within 120  
10 days. A copy of the decision and copy of the  
11 transcript will be sent to you. And on May 1<sup>st</sup>,  
12 2004, regulations regarding your right to appeal a  
13 decision made at this hearing were repealed. So  
14 the process now is that you must go through the  
15 courts. So if you have any questions about that  
16 process and the procedure, you can talk it over  
17 with your legal counsel or you can also review the  
18 policy at your prison law library. Sir, you're  
19 not required to admit to or discuss your offense,  
20 however, the panel does accept as true the  
21 findings of the court. So you do understand what  
22 that means?

23 INMATE DOWELL: Yes, I understand.

24 PRESIDING COMMISSIONER ENG: So  
25 Commissioner, Filangeri, is there any confidential  
26 material that will be used today?

27 DEPUTY COMMISSIONER FILANGERI: There is no

1 confidential material in the file.

2 PRESIDING COMMISSIONER ENG: Okay. We've  
3 already reviewed the Hearing Checklist with the  
4 Deputy DA in Los Angeles, and your attorney has  
5 also checked this off, and we do this to make sure  
6 that we all have the same set of documents for the  
7 hearing, and this is labeled "Exhibit 1."  
8 Counselor, are there any additional documents to  
9 be submitted to the panel this morning?

10 ATTORNEY HAWKINS: Yes. There are a number  
11 of letters of recommendation received by Mr.  
12 Dowell from family members, a community religious  
13 leader, as well as family friends.

14 PRESIDING COMMISSIONER ENG: Okay. Thank  
15 you. Do you have any preliminary objections?

16 ATTORNEY HAWKINS: No.

17 PRESIDING COMMISSIONER ENG: Okay. And will  
18 your client be speaking with the panel this  
19 morning?

20 ATTORNEY HAWKINS: Yes. Mr. Dowell is  
21 prepared to answer any questions the panel might  
22 have.

23 PRESIDING COMMISSIONER ENG: Okay. Sir,  
24 I'll have to swear you in. Please raise your  
25 right hand.

26 INMATE DOWELL: (inaudible).

27 PRESIDING COMMISSIONER ENG: Do you solemnly

10

1 swear or affirm that the testimony that you give  
2 at this hearing will be truth, the whole truth,  
3 and nothing but the truth?

4 INMATE DOWELL: Yes.

5 PRESIDING COMMISSIONER ENG: Okay. Thank  
6 you. I'm going to read into the record the  
7 Statement of Facts, and I'm taking that from the  
8 Probation Officer's Report, Page 2.

9 "At about 12:30 in the morning on  
10 March 24, 1982, the defendant  
11 entered the residence of victim  
12 Pauline Dowell, D-O-W-E-L-L,  
13 ex-common-law wife, forced her to  
14 dress, and stated that he was going  
15 to kill her and her boyfriend,  
16 victim James Winnet, W-I-N-N-E-T.  
17 Defendant then forced her into his  
18 red pickup and they drove looking  
19 for victim Winnet. At the time,  
20 victim Dowell did not know that  
21 there -- they were being followed by  
22 victim Winnet. The defendant  
23 stopped the pickup truck and  
24 retrieved a handgun from beneath the  
25 seat and exited the truck. Several  
26 shots were fired, and the defendant

11

1 told victim Winnet that he was going  
2 to kill him. At about 1:40 a.m.,  
3 victim Winnet was determined to be  
4 dead. After defendant shot victim  
5 Winnet, victim Dowell ran from the  
6 scene to call for help. The  
7 defendant shouted for her to stop,  
8 and when she did not comply, he  
9 fired one shot at her."

10 Sir, is that an accurate description of what -- I  
11 know it's a brief description, but is that an  
12 accurate description of what happened on that  
13 night?

14 INMATE DOWELL: Yeah, that's the record of  
15 the court. I dispute one item in there. I never  
16 shot at Pauline. But other than that, it's fairly  
17 accurate, yes.

18 PRESIDING COMMISSIONER ENG: Okay. Because  
19 I thought that she had stated that she thought  
20 that you had fired at her.

21 INMATE DOWELL: I think in the court record  
22 it states where she -- doesn't it? That it says  
23 that I did not fire at her, but I could be  
24 mistaken there, but --

25 PRESIDING COMMISSIONER ENG: You were used  
26 to dealing with weapons, correct?

27 INMATE DOWELL: Yes.

12

1           PRESIDING COMMISSIONER ENG: Had you grown  
2 up with a lot of guns?

3           INMATE DOWELL: Yes.

4           PRESIDING COMMISSIONER ENG: So I'm assuming  
5 that by having all those guns, you were used to  
6 shooting them also?

7           INMATE DOWELL: Yes.

8           PRESIDING COMMISSIONER ENG: Okay. You were  
9 pretty angry at Mr. Winnet.

10          INMATE DOWELL: At that time I was, yes.

11          PRESIDING COMMISSIONER ENG: You were angry  
12 because he was going to -- he intended to marry  
13 Miss Dowell?

14          INMATE DOWELL: Yeah. It was a problem of  
15 jealousy and anger, for that reason right there,  
16 but he was becoming between my children and of  
17 course what I thought was my wife, you know, and  
18 which those feelings I know now are misgiven, but  
19 at that time that's the way I felt, and but I know  
20 that those feelings there could never -- you know,  
21 were entirely misguided.

22          PRESIDING COMMISSIONER ENG: And you were  
23 separated at the time, weren't you?

24          INMATE DOWELL: No.

25          PRESIDING COMMISSIONER ENG: You were still  
26 living together?

27          INMATE DOWELL: Well, we'd been -- my



13

1 clothes were still in the closets. We hadn't  
2 actually moved out apart from one another at the  
3 time.

4 PRESIDING COMMISSIONER ENG: But you -- were  
5 you aware that Miss Dowell intended to spit with  
6 you, or to separate with you?

7 INMATE DOWELL: Yeah, we had spoke about it  
8 earlier in the week, or week before that, I think  
9 it was, but, you know, you never -- those  
10 emotions, you never really -- it takes awhile to  
11 get over them and everything and that's how -- why  
12 I was still angry at the time, I think it was.

13 PRESIDING COMMISSIONER ENG: Were you  
14 abusive to Mrs. Dowell?

15 INMATE DOWELL: No.

16 PRESIDING COMMISSIONER ENG: Did you ever  
17 hit her in the past?

18 INMATE DOWELL: One time I did, but that was  
19 almost two years prior to that.

20 PRESIDING COMMISSIONER ENG: Had you hit  
21 women before in previous relationships?

22 INMATE DOWELL: Never.

23 PRESIDING COMMISSIONER ENG: What caused you  
24 to hit her that one time?

25 INMATE DOWELL: A very heated argument.

26 PRESIDING COMMISSIONER ENG: Do you remember  
27 what it was about?

14

1 INMATE DOWELL: Infidelity, I believe.

2 PRESIDING COMMISSIONER ENG: On whose part?

3 INMATE DOWELL: On her part.

4 PRESIDING COMMISSIONER ENG: Okay. Can you  
5 think back and remember what triggered -- do you  
6 understand what I mean by that? What triggered  
7 you to actually strike out at her?

8 INMATE DOWELL: Well, I --

9 PRESIDING COMMISSIONER ENG: What was the  
10 moment?

11 INMATE DOWELL: I think it's when she was  
12 yelling at me and actually struck me, I think, or  
13 at least pushed me anyway.

14 PRESIDING COMMISSIONER ENG: And what did  
15 you do?

16 INMATE DOWELL: I think that's when I pushed  
17 her back, and I just pushed her at that time.  
18 That's all I did, just pushed her.

19 PRESIDING COMMISSIONER ENG: Did you knock  
20 her down?

21 INMATE DOWELL: No.

22 PRESIDING COMMISSIONER ENG: So she didn't  
23 fall?

24 INMATE DOWELL: No.

25 PRESIDING COMMISSIONER ENG: How'd you feel  
26 about doing that?

27 INMATE DOWELL: I felt really, really bad

1 about it, and for a long time I really talked to  
2 her several times about it and everything, because  
3 I know that that really makes women feel powerless  
4 and stuff.

5 PRESIDING COMMISSIONER ENG: Do you think  
6 that contributed to her wanting to split up with  
7 you?

8 INMATE DOWELL: It may have. But mostly the  
9 reason why we split up is because I never devoted  
10 enough time to our relationship, and that's the  
11 main reason that we --

12 PRESIDING COMMISSIONER ENG: What caused you  
13 to get to a point where you would actually shoot  
14 and kill Mr. Winnet? What caused you to get so  
15 angry that night?

16 INMATE DOWELL: Well, I think it's when -- I  
17 intended to talk to Pauline about the separation  
18 and everything, and then when I found out that Mr.  
19 Winnet had taken her car and traded it off to some  
20 impound lot or something, and I think that's what  
21 really put my emotions over the top, I think.

22 PRESIDING COMMISSIONER ENG: Why did you  
23 focus on him and not on her?

24 INMATE DOWELL: I love Pauline very much and  
25 we have two children together, and, you know, you  
26 can't -- you can never have looked the children in  
27 the eye again if you would harm their mother or

16

1 something in a serious fashion. You just would  
2 never be able to do that.

3 PRESIDING COMMISSIONER ENG: Did you  
4 typically drive around with a loaded weapon in  
5 your vehicle or on your person?

6 INMATE DOWELL: In the vehicle most of the  
7 time.

8 PRESIDING COMMISSIONER ENG: Why?

9 INMATE DOWELL: I was -- I grew up that way,  
10 and it just carried over from my childhood I  
11 guess.

12 PRESIDING COMMISSIONER ENG: Even though  
13 it's against the law?

14 INMATE DOWELL: Well, in the state I grew up  
15 in, it's not against the law as long as it's in  
16 plain sight.

17 PRESIDING COMMISSIONER ENG: I believe that  
18 you had a weapon hidden.

19 INMATE DOWELL: I had one behind the seat,  
20 but it was unloaded, and that's true, and the  
21 other one was laying on the floorboard.

22 PRESIDING COMMISSIONER ENG: But even then,  
23 I don't think in the County of Los Angeles --

24 INMATE DOWELL: It's -- it was illegal. I'm  
25 not trying to argue that.

26 PRESIDING COMMISSIONER ENG: Okay. Okay.  
27 Had you been drinking that night?

17

1 INMATE DOWELL: Earlier.

2 PRESIDING COMMISSIONER ENG: Did you ever do  
3 drugs?

4 INMATE DOWELL: No.

5 PRESIDING COMMISSIONER ENG: Strictly  
6 drinking?

7 INMATE DOWELL: Yeah.

8 PRESIDING COMMISSIONER ENG: Okay. You used  
9 to get drunk a lot?

10 INMATE DOWELL: Sometimes, yes.

11 PRESIDING COMMISSIONER ENG: Would you say  
12 that you had a drinking problem?

13 INMATE DOWELL: Yeah, occasionally. I  
14 mostly would go on binge drinking, you know.

15 PRESIDING COMMISSIONER ENG: If you have any  
16 recollection of those times that you went on binge  
17 drinking, would you have a tendency to get easily  
18 angered, do you recall? Or has anybody ever told  
19 you that?

20 INMATE DOWELL: No. Mostly when I would be  
21 binge drinking or something, it was a traffic  
22 problem or something that I would have, which is  
23 -- you know, the records support that. I --

24 PRESIDING COMMISSIONER ENG: Right.

25 INMATE DOWELL: I have two -- three DUIs,  
26 drunk driving, and that's the biggest problem.

27 PRESIDING COMMISSIONER ENG: Had anybody

18

1 ever told you, you know how the saying goes, that  
2 some people are ugly drunks?

3 INMATE DOWELL: Yeah.

4 PRESIDING COMMISSIONER ENG: Okay.

5 INMATE DOWELL: Yeah. No.

6 PRESIDING COMMISSIONER ENG: Where some  
7 people can turn very nasty --

8 INMATE DOWELL: Yeah.

9 PRESIDING COMMISSIONER ENG: -- when they've  
10 had a certain amount to drink, and other people --

11 INMATE DOWELL: Yeah.

12 PRESIDING COMMISSIONER ENG: -- sometimes  
13 get very passive and --

14 INMATE DOWELL: Right.

15 PRESIDING COMMISSIONER ENG: -- just sort of  
16 blend in with the woodwork.

17 INMATE DOWELL: Yeah.

18 PRESIDING COMMISSIONER ENG: So has anybody  
19 ever indicated that to you about yourself?

20 INMATE DOWELL: No, uh-uh, because I don't  
21 interact with people normally when I'm drinking.

22 PRESIDING COMMISSIONER ENG: Did it ever  
23 occur to you when you were drinking and driving  
24 that you could possibly kill somebody?

25 INMATE DOWELL: Well, at the time it never,  
26 but as years have went by, well, yeah, there's a  
27 very likelihood that that would've happened if I

19

1 were to continue doing that.

2 PRESIDING COMMISSIONER ENG: You said that  
3 you have two children.

4 INMATE DOWELL: Yeah.

5 PRESIDING COMMISSIONER ENG: And people and  
6 drive, you have to think in terms sometimes what  
7 would -- how would you feel if a drunk driver  
8 killed one of your children.

9 INMATE DOWELL: Yeah, I understand that.  
10 That's exactly what I'm talking about right there.

11 PRESIDING COMMISSIONER ENG: Okay. Let's  
12 take a look at your prior record. You did notate  
13 that you did have some problems with drunk  
14 driving. The record indicates that you  
15 (inaudible) tell that you had any juvenile record.  
16 Is that true?

17 INMATE DOWELL: That's true.

18 PRESIDING COMMISSIONER ENG: Okay. So you  
19 really started running into problems as an adult,  
20 dating back to I guess April 2<sup>nd</sup>, 1965. Do you  
21 recall that? I guess this was in Oregon.

22 INMATE DOWELL: Yeah.

23 PRESIDING COMMISSIONER ENG: You were  
24 arrested and convicted for public drunkenness.

25 INMATE DOWELL: Yeah.

26 PRESIDING COMMISSIONER ENG: Then five years  
27 later, on January 6, 1970, the Lynnwood Police

20

1 Department arrests, possession of narcotics, and  
2 possession of a concealed weapon. What were you  
3 doing with narcotics? I thought you told me that  
4 you didn't do drugs.

5 INMATE DOWELL: Those were prescription  
6 medication that the person that owned the coat I  
7 was wearing.

8 PRESIDING COMMISSIONER ENG: Okay.

9 INMATE DOWELL: They were in a pocket of the  
10 coat that --

11 PRESIDING COMMISSIONER ENG: What about the  
12 concealed weapon?

13 INMATE DOWELL: It was a hunting -- knife  
14 that I had on my belt.

15 PRESIDING COMMISSIONER ENG: Okay.

16 INMATE DOWELL: We just got back from a  
17 camping trip on the Kern River and --

18 PRESIDING COMMISSIONER ENG: How'd they end  
19 up picking you up?

20 INMATE DOWELL: The person -- not -- I  
21 wasn't involved, but one of the people in the  
22 party had a fight with somebody out in the middle  
23 of the street, and somebody called the cops, and  
24 we were unloading things there in the driveway and  
25 they showed up, and so they stopped everybody and  
26 searched them and everything and --

27 PRESIDING COMMISSIONER ENG: Were you the



21

1 only one out of the group that was arrested?

2 INMATE DOWELL: No, the other two people  
3 that were in the fight also, were arrested also.

4 PRESIDING COMMISSIONER ENG: Then in March  
5 of '74, three-year county probation for failure to  
6 pay support. What was that about?

7 INMATE DOWELL: My first wife, I missed two  
8 child support payments.

9 PRESIDING COMMISSIONER ENG: Okay. Then in  
10 '77 the Long Beach Police Department arrest for  
11 drunk driving. Found guilty of a misdemeanor and  
12 fined. And then three years later you received  
13 the pandering arrest, and you were sentenced to 36  
14 months of court probation. This is the -- this  
15 conviction was the one that was merged with the  
16 commitment offense --

17 INMATE DOWELL: Yeah.

18 PRESIDING COMMISSIONER ENG: -- that I had  
19 read into the record. And that pandering, tell me  
20 about that.

21 INMATE DOWELL: The renter didn't want to  
22 pay the rent, and I told her to -- I didn't care  
23 how she got it, because the banks tell me that I  
24 don't care how you get it, just give the money, so  
25 I'm -- that was a very shameful way to do things,  
26 but sometimes you just -- you don't think about  
27 the repercussions and what you're actually doing

22

1 to people when you tell them things.

2 PRESIDING COMMISSIONER ENG: Would you have  
3 asked a man to --

4 INMATE DOWELL: No, I don't think so.

5 PRESIDING COMMISSIONER ENG: -- become a  
6 pimp?

7 INMATE DOWELL: I don't think so.

8 PRESIDING COMMISSIONER ENG: In terms of  
9 your personal history, so you were born and raised  
10 in Oregon?

11 INMATE DOWELL: Yes.

12 PRESIDING COMMISSIONER ENG: Okay. When did  
13 you come to California?

14 INMATE DOWELL: Seven -- '68 -- '69, '70.

15 PRESIDING COMMISSIONER ENG: And what  
16 brought you to California?

17 INMATE DOWELL: A job. My first wife and a  
18 job.

19 PRESIDING COMMISSIONER ENG: So in Oregon,  
20 okay, you completed the eleventh grade. Did you  
21 ever graduate from high school?

22 INMATE DOWELL: I took a completion test.

23 PRESIDING COMMISSIONER ENG: So did you get  
24 a GED, or no, or you --

25 INMATE DOWELL: I don't --

26 PRESIDING COMMISSIONER ENG: -- you did get  
27 a diploma though?

23

1 INMATE DOWELL: Yeah, I got a completion --

2 PRESIDING COMMISSIONER ENG: A completion.

3 Okay.

4 INMATE DOWELL: -- a certification of  
5 completion.

6 PRESIDING COMMISSIONER ENG: Okay. And then  
7 you did training as a maintenance mechanic also --

8 INMATE DOWELL: Yeah.

9 PRESIDING COMMISSIONER ENG: -- for the  
10 community college. Okay. It states here that --  
11 okay. You had a previous marriage to Neva,  
12 N-E-V-A, McKinley, M-C-capital-K-I-N-L-E-Y. So is  
13 that -- did I pronounce that correctly? Neva or  
14 Neva?

15 INMATE DOWELL: Neva, I believe.

16 PRESIDING COMMISSIONER ENG: Neva?

17 INMATE DOWELL: Yeah.

18 PRESIDING COMMISSIONER ENG: So that  
19 marriage to Neva, was that up in Oregon, and then  
20 you moved down here, or did you meet her down here  
21 in California?

22 INMATE DOWELL: I married her in Oregon.

23 PRESIDING COMMISSIONER ENG: You married her  
24 in Oregon.

25 INMATE DOWELL: Yeah.

26 PRESIDING COMMISSIONER ENG: Okay. And --  
27 okay. So you were married for five years and you

24

1 had two children. Were those children born in  
2 Oregon or born here in California?

3 INMATE DOWELL: One was born in Oregon and  
4 one was born in California.

5 PRESIDING COMMISSIONER ENG: Okay. So when  
6 you decided to uproot from Oregon you had one  
7 child and a wife and you moved to --

8 INMATE DOWELL: We didn't have any children  
9 at that time.

10 PRESIDING COMMISSIONER ENG: Oh.

11 INMATE DOWELL: We moved to California, had  
12 a children, moved back to Oregon, had a child,  
13 moved back to California.

14 PRESIDING COMMISSIONER ENG: Okay. Okay.  
15 And those two children, are they girls, boys?

16 INMATE DOWELL: One girl, one boy.

17 PRESIDING COMMISSIONER ENG: Okay. And how  
18 old are they now?

19 INMATE DOWELL: Thirty-seven the boy is, and  
20 34 for the girl.

21 PRESIDING COMMISSIONER ENG: Do you stay in  
22 contact with them?

23 INMATE DOWELL: Occasionally. We write once  
24 or twice a year.

25 PRESIDING COMMISSIONER ENG: Where are they?

26 INMATE DOWELL: La Jolla.

27 PRESIDING COMMISSIONER ENG: Both of them?

25

1 INMATE DOWELL: No. The boy, my son lives  
2 in La Jolla, my -- and Dorothy lives in Arizona,  
3 in a little town outside Phoenix.

4 PRESIDING COMMISSIONER ENG: Do they both  
5 have families? Are they married or --

6 INMATE DOWELL: Yeah, they're both married.

7 PRESIDING COMMISSIONER ENG: And working,  
8 etcetera?

9 INMATE DOWELL: Yeah. Right.

10 PRESIDING COMMISSIONER ENG: Okay. And have  
11 they ever visited you in prison?

12 INMATE DOWELL: No. I ask that they don't.

13 PRESIDING COMMISSIONER ENG: But you talk to  
14 them?

15 INMATE DOWELL: Yes.

16 PRESIDING COMMISSIONER ENG: Do you ever  
17 talk to them about your life crime?

18 INMATE DOWELL: Yeah. They understand what  
19 happened.

20 PRESIDING COMMISSIONER ENG: You also have  
21 another two children that you had with Pauline  
22 Ramirez Dowell, who was your common law wife.

23 INMATE DOWELL: Right.

24 PRESIDING COMMISSIONER ENG: Okay. And  
25 girls or boys?

26 INMATE DOWELL: Two boys.

27 PRESIDING COMMISSIONER ENG: Two boys.

26

1 INMATE DOWELL: Yes.

2 PRESIDING COMMISSIONER ENG: How old are  
3 they?

4 INMATE DOWELL: Twenty-four, the youngest  
5 one, and 27 I think -- 28 I believe is the oldest  
6 one.

7 PRESIDING COMMISSIONER ENG: Are you in  
8 touch with them?

9 INMATE DOWELL: Yeah.

10 PRESIDING COMMISSIONER ENG: Where are they?

11 INMATE DOWELL: One lives in Los Angeles.

12 PRESIDING COMMISSIONER ENG: Okay.

13 INMATE DOWELL: Lives with his mother  
14 actually, outside of Los Angeles.

15 PRESIDING COMMISSIONER ENG: How about the  
16 other one?

17 INMATE DOWELL: And then the oldest one's in  
18 prison.

19 PRESIDING COMMISSIONER ENG: He's in prison.

20 INMATE DOWELL: Uh-huh.

21 PRESIDING COMMISSIONER ENG: For what?

22 INMATE DOWELL: For great bodily injury.

23 PRESIDING COMMISSIONER ENG: Okay. So do  
24 you speak with either one?

25 INMATE DOWELL: Yeah.

26 PRESIDING COMMISSIONER ENG: Do you ever see  
27 them? Well, obviously the one in prison you're

27

1 not going to see for a while.

2 INMATE DOWELL: No.

3 PRESIDING COMMISSIONER ENG: Well, what  
4 about the younger one?

5 INMATE DOWELL: No, I don't see him, but I  
6 write to them, yeah.

7 PRESIDING COMMISSIONER ENG: He's never come  
8 up to visit?

9 INMATE DOWELL: No. I ask they don't come  
10 to visit.

11 PRESIDING COMMISSIONER ENG: You don't want  
12 to see them.

13 INMATE DOWELL: I don't want to.

14 PRESIDING COMMISSIONER ENG: What about  
15 Pauline?

16 INMATE DOWELL: I write to her occasionally.  
17 She writes to me.

18 PRESIDING COMMISSIONER ENG: Have you talked  
19 about the life crime with Pauline?

20 INMATE DOWELL: Yes.

21 PRESIDING COMMISSIONER ENG: And about what  
22 happened?

23 INMATE DOWELL: Yes.

24 PRESIDING COMMISSIONER ENG: And what do you  
25 think about what you put her through that night?

26 INMATE DOWELL: I really feel really  
27 terrible about it. I apologized to her many

28

1 times. Every time I write her, matter of fact, I  
2 apologize to her again, even though this is one  
3 thing that through my AA I've learned to come  
4 around, but you can't really make amends for this  
5 kind of thing. No matter what you do for these  
6 people or anything, you can't take it back, you  
7 know, you just -- it's impossible, so -- and then  
8 it weighs on you. ~~Every decision you make, you~~  
9 think about this, because it really -- it does  
10 weigh on you.

11 PRESIDING COMMISSIONER ENG: Well, there are  
12 consequences to everyone's actions, aren't there?

13 INMATE DOWELL: There most certainly is.

14 PRESIDING COMMISSIONER ENG: What about Mr.  
15 Winnet and who he left behind?

16 INMATE DOWELL: Yeah.

17 PRESIDING COMMISSIONER ENG: What have you  
18 thought about that?

19 INMATE DOWELL: He didn't have any family.

20 At least that's what I've been told. But I paid  
21 for his funeral and whatever else I could do.

22 PRESIDING COMMISSIONER ENG: But what have  
23 you thought about him as a victim? Regardless of  
24 whether he had family living left, what have you  
25 thought about?

26 INMATE DOWELL: Well, I realize that this  
27 ended all his dreams, and as a person, I know that



29

1 he had dreams and which is the same as everybody  
2 else did, and when you kill somebody, well, then  
3 you take all that from them, and it puts a burden  
4 on you, and you can't -- and since you can't erase  
5 something like that, no matter what you do, no  
6 matter how bad it makes you feel, or anything  
7 else, you can't start -- it's over with. You  
8 can't stop it.

9 PRESIDING COMMISSIONER ENG: When you pulled  
10 out that shotgun, because I -- if my recollection  
11 is correct, that you had a handgun first?

12 INMATE DOWELL: Yes.

13 PRESIDING COMMISSIONER ENG: And I think  
14 both of you were shooting at each other?

15 INMATE DOWELL: Yes.

16 PRESIDING COMMISSIONER ENG: Did you hit  
17 anything at that point?

18 INMATE DOWELL: I'm not sure.

19 PRESIDING COMMISSIONER ENG: Okay. But then  
20 you went for the shotgun.

21 INMATE DOWELL: Yeah. Because I emptied the  
22 handgun.

23 PRESIDING COMMISSIONER ENG: Right. At that  
24 point did you want to kill him? Was that your  
25 intent?

26 INMATE DOWELL: Well, I was in the heat of  
27 the battle at that time, and, yes, I --

1           PRESIDING COMMISSIONER ENG: You wanted him  
2     dead?

3           INMATE DOWELL: Yeah.

4           PRESIDING COMMISSIONER ENG: Okay. So is  
5     there anything that I've left out in terms of your  
6     personal life or your background, or in terms of  
7     your previous convictions, etcetera? Is there  
8     anything that I've missed --

9           INMATE DOWELL: I don't think so.

10          PRESIDING COMMISSIONER ENG: -- that you'd  
11     like me to add or discuss?

12          INMATE DOWELL: Not that I'm aware of. I  
13     don't think you missed anything.

14          PRESIDING COMMISSIONER ENG: Okay. Okay.  
15     We'll move on, and Commissioner Filangeri will go  
16     over your post-conviction factors.

17          DEPUTY COMMISSIONER FILANGERI: Thank you,  
18     Commissioner. The purpose of this segment of the  
19     hearing is to detail your prison behavior since  
20     the last time you appeared before the Board. The  
21     records suggest that you were postponed on  
22     November of 2005 because there was no new psych  
23     report as had been ordered in 2003, which was your  
24     last actual hearing, July 17<sup>th</sup>. Does that sound  
25     right to you?

26          INMATE DOWELL: That's correct, yes.

27          DEPUTY COMMISSIONER FILANGERI: I'm going to

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1 be making reference to several documents along the  
2 way, the first of which is the report from the  
3 correctional counselor, I. Tate, T-A-T-E. It --  
4 his signature is not dated, but the report shows  
5 June 2006. Over on post-conviction factors  
6 there's a lengthy text covering your entire prison  
7 experience, from 12/30/83 when you were received  
8 from Los Angeles, to present. The only thing  
9 specific to your behavior since the last hearing  
10 starts about five lines up from the bottom of that  
11 section on page 5, saying that your period at the  
12 hearing was denied two years. The November 2005  
13 hearing was postponed. Case factors reviewed in  
14 absentia for annual review, programs not modified.  
15 Then we go down to therapy and self-help groups  
16 since the last hearing. It looks like you got  
17 certificates from Introduction to the Lathe,  
18 Introduction to Mailing Machines, Introduction to  
19 Bench Work. So you've been working in the --

20 INMATE DOWELL: In vocational Machine Shop.

21 DEPUTY COMMISSIONER FILANGERI: Vocational  
22 Machine Shop.

23 INMATE DOWELL: Right.

24 DEPUTY COMMISSIONER FILANGERI: That's  
25 terrific. And I saw of interest in there was the  
26 certificate of achievement from Maintenance and  
27 Operation of High Pressure Boiler. It was

1 actually a certificate of completion of a 12-month  
2 course in that; is that right?

3 INMATE DOWELL: That's correct, yes.

4 DEPUTY COMMISSIONER FILANGERI: That was in  
5 '89. And there was some sort of home study course  
6 on Modern Metal Cutting that you completed in  
7 September of 2002?

8 INMATE DOWELL: Yes.

9 DEPUTY COMMISSIONER FILANGERI: Was that  
10 correspondence?

11 INMATE DOWELL: Yes, it was correspondence.

12 DEPUTY COMMISSIONER FILANGERI: How'd you  
13 arrange that?

14 INMATE DOWELL: Through the vocational  
15 Machine Shop.

16 DEPUTY COMMISSIONER FILANGERI: Now you've  
17 had a lot of experience working in PIA. As I look  
18 through here, I saw stuff like -- well, maybe  
19 we've already covered it. I saw something in voc  
20 Machine on 2002 and 2003, and it was difficult for  
21 me to tell whether -- it looked like you were  
22 getting vocational Machine Shop credit and  
23 completing courses, but it looked like they also  
24 relied on you to repair things.

25 INMATE DOWELL: Yes.

26 DEPUTY COMMISSIONER FILANGERI: Was it kind  
27 of a two-way street there?

33

1 INMATE DOWELL: Yes.

2 DEPUTY COMMISSIONER FILANGERI: All right.

3 And you've had some experience repairing things in  
4 the past.

5 INMATE DOWELL: Yeah. I started the  
6 apprenticeship in 1962 actually to be a --

7 DEPUTY COMMISSIONER FILANGERI: On the  
8 street?

9 INMATE DOWELL: On the street, to be a  
10 machine -- a millwright machinist.

11 DEPUTY COMMISSIONER FILANGERI: I see. How  
12 far'd you get in that?

13 INMATE DOWELL: I worked in it for 12 years.

14 DEPUTY COMMISSIONER FILANGERI: The  
15 probation officer's report said that you were a  
16 manager in a motorcycle repair shop. Your duties  
17 involved --

18 INMATE DOWELL: Yeah, doing machine work.

19 DEPUTY COMMISSIONER FILANGERI: Repairing  
20 motorcycles.

21 INMATE DOWELL: Yeah.

22 DEPUTY COMMISSIONER FILANGERI: So you were  
23 actually fabricating parts for bikes?

24 INMATE DOWELL: That's right.

25 DEPUTY COMMISSIONER FILANGERI: What kind of  
26 bikes?

27 INMATE DOWELL: Harley-Davidsons, Hondas,

1 BMWs.

2 DEPUTY COMMISSIONER FILANGERI: Really all  
3 different kinds of bikes.

4 INMATE DOWELL: Yes.

5 DEPUTY COMMISSIONER FILANGERI: It wasn't  
6 any particular specialty?

7 INMATE DOWELL: Mostly on Harley-Davidsons,  
8 redoing the valves on the older machines.

9 DEPUTY COMMISSIONER FILANGERI: They go  
10 through valves pretty quick, do they?

11 INMATE DOWELL: Yeah, but you can't -- you  
12 couldn't -- at that time you couldn't buy them  
13 so--

14 DEPUTY COMMISSIONER FILANGERI: So you were  
15 turning new valves?

16 INMATE DOWELL: Yeah. I was converting car  
17 valves to fit into the motorcycles.

18 DEPUTY COMMISSIONER FILANGERI: Wow. Wow,  
19 that's pretty sophisticated. Okay. Let me see,  
20 what else did I see in here? Well, your

21 disciplinary history is very noteworthy in terms  
22 of its absence of anything. I guess you got a  
23 general counseling chrono for possession of  
24 dangerous property in 2002. What kind of property  
25 was that?

26 INMATE DOWELL: Those were actually  
27 screwdrivers and some pliers that were in a locker

35

1 that I had control of.

2 DEPUTY COMMISSIONER FILANGERI: Was that in  
3 the industries area, or your job site --

4 INMATE DOWELL: No --

5 DEPUTY COMMISSIONER FILANGERI: -- or was it  
6 at your house?

7 INMATE DOWELL: -- at that time, I was doing  
8 clerical work at that time and they were in a  
9 locker in the office that I shared with an  
10 officer.

11 DEPUTY COMMISSIONER FILANGERI: You just  
12 can't stop fixing things, can you?

13 INMATE DOWELL: No. And the write-up was  
14 because I had a inmate combination lock on the  
15 locker.

16 DEPUTY COMMISSIONER FILANGERI: I see.

17 INMATE DOWELL: Even though they all had  
18 keys for it, but --

19 DEPUTY COMMISSIONER FILANGERI: Yeah.

20 INMATE DOWELL: -- they give -- they said  
21 that that gave me sole access to the tools.

22 DEPUTY COMMISSIONER FILANGERI: Oh, so they  
23 weren't your tools?

24 INMATE DOWELL: No, they belonged to one of  
25 the officers -- two of the officers.

26 DEPUTY COMMISSIONER FILANGERI: The officers  
27 put them in there?

36

1 INMATE DOWELL: Yeah.

2 DEPUTY COMMISSIONER FILANGERI: Did you say  
3 that at your --

4 INMATE DOWELL: Yeah, they knew that.

5 DEPUTY COMMISSIONER FILANGERI: Why'd they  
6 give you a counseling chrono?

7 INMATE DOWELL: Because they were supposed  
8 to have a -- an inventory sheet on them and nobody  
9 -- everybody failed to put an inventory sheet on  
10 them.

11 DEPUTY COMMISSIONER FILANGERI: So just to  
12 cover their backsides.

13 INMATE DOWELL: Yes.

14 DEPUTY COMMISSIONER FILANGERI: I see. I  
15 didn't see anything else remarkable about the  
16 probation -- sorry, the correctional counselor's  
17 report. I want to turn now to the psychological  
18 evaluation. It's dated May 2, 2006. It's  
19 provided by Michelle Lynn Inaba, I-N-A-B-A, Ph.D.

20 Under -- on page 2, under "Clinical Assessment,"  
21 she describes you as functioning within normal  
22 limits. She does mention a history of dyslexia  
23 and that you commented, that you still have  
24 difficulty sounding out some words for reading,  
25 but that seemed to be the only -- anything outside  
26 the norm. Axis I diagnostic impression was  
27 Bereavement, Alcohol Abuse in a Controlled



1 Environment, and Adult Antisocial Behavior by  
2 History; Axis II, No Contributory Personality  
3 Disorder, and she gives you a Global Assessment of  
4 Functioning Score of 78. Then she goes into an  
5 assessment of dangerousness. Under "Violence  
6 History," she says that you grew up in an  
7 environment in which you had ready access to  
8 firearms, you handled guns at a young age, guns  
9 were seen as a necessary tool for ranch work, and  
10 you had a weapons charge prior to the commitment  
11 offense. The commitment offense involved shooting  
12 the victim. As an older man, however, you no  
13 longer feel the need to handle conflict situations  
14 aggressively, she notes. Under "Controlled  
15 Environment," you've remained disciplinary free  
16 since your last appearance before the Board. In  
17 fact, you've been disciplinary free through your  
18 whole institutional history, and she says that you  
19 would be expected to be at a low risk of violence  
20 in a controlled environment. If released to the  
21 community, she says you -- she makes notes of  
22 static risk factors: history of alcohol abuse,  
23 male gender, male victim, previous criminality,  
24 past use of firearm, and victim injury. On the  
25 other hand, she says that you have no present  
26 dynamic risk factors, such as loss of control or  
27 impulsive behavior, lack of compassion, anger, or

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1   paranoid or violent thoughts. Also noted that she  
2   believes your plans for how to use your time if  
3   paroled seem to be constructive and realistic. In  
4   her "Comments and Summary" she says you're not a  
5   person who is comfortable talking about or  
6   expressing your feelings, and she believes you no  
7   longer need to display the same level of  
8   aggression. "He participated in self-help,  
9   religious activities," and they've helped give you  
10   the skills to conduct yourself in a sober and  
11   nonviolent manner across settings. She mentions  
12   you regularly attend AA. I should speak to that,  
13   because, you know, I only saw one chrono about AA  
14   and it was in December of 2005, or the fourth  
15   quarter of 2005. Are you still in AA?

16           INMATE DOWELL: Yes, I am.

17           DEPUTY COMMISSIONER FILANGERI: How come  
18   they're not sending chronos? They used to send  
19   chronos like --

20           INMATE DOWELL: I don't know why --

21           DEPUTY COMMISSIONER FILANGERI: -- every  
22   couple of three months.

23           INMATE DOWELL: -- it's not in the record.

24           DEPUTY COMMISSIONER FILANGERI: Did you  
25   bring any?

26           INMATE DOWELL: Yeah, I have some in my  
27   self-help side.

39

1           DEPUTY COMMISSIONER FILANGERI: Okay. Let  
2 me see. We're down on the bottom of page 4 now I  
3 think. The examiner says, "With greater maturity,  
4 it would be expected that a man would have more  
5 consistent behavior control and a lessening of the  
6 anger." She thought you fell into this category.  
7 Overall, your risk of violent recidivism would be  
8 low at the present time providing you remain  
9 abstinent from use of alcohol and drugs, and any  
10 return to use of intoxicants would change your  
11 prognosis. In looking over the rest of your file  
12 I found a couple of things that I thought we worth  
13 noting. For instance, your last test of Adult  
14 Basic Education reading level was two point three.  
15 That was February of 2003.

16           INMATE DOWELL: Two point three?

17           DEPUTY COMMISSIONER FILANGERI: Two point  
18 three.

19           INMATE DOWELL: That's pretty low, isn't it?

20           DEPUTY COMMISSIONER FILANGERI: Well, I just  
21 wondered if you'd care to comment on that?

22           INMATE DOWELL: I was given a special test.

23           DEPUTY COMMISSIONER FILANGERI: A special  
24 test.

25           INMATE DOWELL: Yeah. Because they wanted  
26 me to take the GED exam, and so I took the whole  
27 thing, and I failed my math because I have a

40

1 problem transposing the numbers.

2 DEPUTY COMMISSIONER FILANGERI: Okay.

3 INMATE DOWELL: And so they gave me a  
4 special test to give me an extra 30 minutes on the  
5 math portion of the test so that I wouldn't have  
6 to worry about hurrying on it and transposing my  
7 numbers.

8 DEPUTY COMMISSIONER FILANGERI: The  
9 documents I saw didn't show any math score at all.  
10 It just showed the reading score.

11 INMATE DOWELL: Yeah.

12 DEPUTY COMMISSIONER FILANGERI: Two of them.

13 INMATE DOWELL: The scores that I've seen in  
14 the past, like on the TABE test, was always been  
15 eleven point five and a twelve point something.

16 DEPUTY COMMISSIONER FILANGERI: Well, I did  
17 see one in July of 2002 for twelve point nine.

18 INMATE DOWELL: Yeah.

19 DEPUTY COMMISSIONER FILANGERI: Which  
20 would've been maxing it.

21 INMATE DOWELL: Yeah.

22 DEPUTY COMMISSIONER FILANGERI: Just for  
23 reading.

24 INMATE DOWELL: Yeah.

25 DEPUTY COMMISSIONER FILANGERI: And I  
26 noticed you were in a pre-GED class, according to  
27 the chronos, between '97 and '99.

41

1 INMATE DOWELL: Yeah. I took -- they wanted  
2 me to prepare for the GED test, and so I was  
3 taking this pre-course, and but even though I was  
4 taking this pre-course, I signed up for the GED  
5 three times, but they never allowed me to take the  
6 test.

7 DEPUTY COMMISSIONER FILANGERI: Why not?

8 INMATE DOWELL: Because they said because of  
9 the dyslexia that it wasn't going to allow me  
10 until they gave me this special test or something,  
11 and they never did do the special test, and that  
12 was under the -- I can't remember the testing  
13 person's name now, I can't remember his name, but  
14 he passed away here last year, and that's the last  
15 that -- that's when all the -- everything stopped,  
16 so I was never allowed to continue with whatever,  
17 if they're going to give me the math portion test  
18 over again for the extended time on it or not, I'm  
19 not sure.

20 DEPUTY COMMISSIONER FILANGERI: Well, I saw  
21 that you were in pre-GED from '97 to '99, a couple  
22 years, got positive chronos in that. They said  
23 that you were enthusiastic, but of course your  
24 dyslexia --

25 INMATE DOWELL: Yeah.

26 DEPUTY COMMISSIONER FILANGERI: -- was  
27 difficult for you to deal with, and that seemed

1 almost inconsistent with the July of 2002 twelve  
2 point nine score, and then that certainly seemed  
3 consistent with the February 2003 two point three  
4 score, but all I can do is ask you to comment on  
5 it and you seemed to have that. Anything else you  
6 want to say about that?

7 INMATE DOWELL: No. I didn't even know what  
8 the score was on that test. This was the first  
9 time that I'd ever taken it. It was a special  
10 test, it wasn't a regular reading test, or a  
11 regular math test or anything. They weren't like  
12 any other test I've ever taken.

13 DEPUTY COMMISSIONER FILANGERI: Okay.  
14 Anything else about your prison behavior you want  
15 to call the panel's attention to?

16 INMATE DOWELL: I have taken five other  
17 self-help programs.

18 DEPUTY COMMISSIONER FILANGERI: Do you want  
19 to comment on those?

20 INMATE DOWELL: Yeah. Well, I took one on  
21 Parenting and it helped me a lot on how to deal  
22 with my own grief and everything, of how my crime  
23 affected my children and everything, and also on  
24 how to present it in a way to my children that  
25 would allow us to be --

26 DEPUTY COMMISSIONER FILANGERI: Sorry, I got  
27 to turn the tape over.

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1 INMATE DOWELL: Okay.

2 DEPUTY COMMISSIONER FILANGERI: I hate to  
3 interrupt you like this, but the good news is this  
4 aggravating beeping --

5 [Thereupon, the tape was turned over.]

6 DEPUTY COMMISSIONER FILANGERI: This is side  
7 two of the tape recorded hearing transcript for  
8 Kenneth Dowell, D-O-W-E-L-L, C like Charles,  
9 78669. This is a Subsequent Parole Consideration  
10 Hearing. You were going to tell me about this  
11 grief --

12 INMATE DOWELL: Yeah.

13 DEPUTY COMMISSIONER FILANGERI: -- class?

14 INMATE DOWELL: The Parenting class that I--

15 DEPUTY COMMISSIONER FILANGERI: Parenting.

16 INMATE DOWELL: -- I've taken. Well, it  
17 helped me to deal with the grief that I was  
18 feeling, because the grief of the hardships and  
19 everything that I caused my children and

20 everything, and it helped me deal with them in a  
21 way that we could be as friends, and father and  
22 son, and father and daughter, you know, with my  
23 one -- this -- with Charlotte and --

24 DEPUTY COMMISSIONER FILANGERI: Yeah. I saw  
25 that you got self-help activities noted by the  
26 counselor in '96, Alternative to Violence; in '94,  
27 the Self-Esteem Program; in '95, Human Growth and

1 Development. Has there been any self-help since  
2 '95?

3 INMATE DOWELL: Well, I go to self-help  
4 every Sunday now. It's put on by the LDS church.

5 DEPUTY COMMISSIONER FILANGERI: I see.

6 INMATE DOWELL: Yeah. We go --

7 DEPUTY COMMISSIONER FILANGERI: So you go to  
8 church.

9 INMATE DOWELL: -- we go services and also  
10 we -- there -- it's a self-help group meeting.

11 DEPUTY COMMISSIONER FILANGERI: Is that  
12 documented in any way?

13 INMATE DOWELL: Just the one letter from our  
14 -- from Mr. Guthrie, the bishop.

15 DEPUTY COMMISSIONER FILANGERI: This appears  
16 to be letterhead from James W. Guthrie,  
17 G-U-T-H-R-I-E, dated August 1, 2005?

18 INMATE DOWELL: Yeah.

19 DEPUTY COMMISSIONER FILANGERI: Has there  
20 been any documentation since the last time you  
21 appeared before the panel?

22 INMATE DOWELL: He was going to send another  
23 letter for this hearing here, but I guess he got  
24 busy and failed to do so.

25 DEPUTY COMMISSIONER FILANGERI: Okay. And  
26 do you remember what this letter says?

27 INMATE DOWELL: Just basically that I've



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1     been there, that even though I'm not a member of  
2     the church at this time, I attend services and  
3     self-help group.

4             DEPUTY COMMISSIONER FILANGERI:   I don't see  
5     anything in here about self-help.

6             INMATE DOWELL:   Oh.

7             DEPUTY COMMISSIONER FILANGERI:   It says that  
8     though you're not a member of the church, you've  
9     taken part in discussions of gospel principles and  
10    on occasion has even taught lessons to the group.

11            INMATE DOWELL:   It's on the movement sheet  
12    that way I guess, yeah.   I guess he failed to put  
13    it in the letter, so that's my mistake.

14            DEPUTY COMMISSIONER FILANGERI:   Yeah,  
15    there's nothing in the letter that seems to sound  
16    anything more than church.   Well, I mean this is  
17    your hearing to --

18            INMATE DOWELL:   Yeah.

19            DEPUTY COMMISSIONER FILANGERI:   -- for you  
20    to clarify that sort of stuff.

21            INMATE DOWELL:   Yeah.

22            DEPUTY COMMISSIONER FILANGERI:   Okay.   So I  
23    guess I should say, other than the AA and other  
24    than the church-going --

25            INMATE DOWELL:   Yeah.

26            DEPUTY COMMISSIONER FILANGERI:   -- has there  
27    been any self-help since '95?

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1 INMATE DOWELL: No.

2 DEPUTY COMMISSIONER FILANGERI: All right.

3 Anything else you want to bring the panel's

4 attention to about your prison behavior?

5 INMATE DOWELL: No, not that I -- I can't

6 think of anything else..

7 DEPUTY COMMISSIONER FILANGERI: Miss

8 Hawkins, is there anything you wanted to point our

9 ~~attention to, bring to our attention --~~

10 ATTORNEY HAWKINS: No.

11 DEPUTY COMMISSIONER FILANGERI: -- about

12 prison behavior?

13 ATTORNEY HAWKINS: It's been covered.

14 DEPUTY COMMISSIONER FILANGERI: Thanks.

15 Then I'll give it back to Commissioner Eng. Thank

16 you.

17 PRESIDING COMMISSIONER ENG: Let's talk

18 about your parole plans, Mr. Dowell. What are

19 they?

20 INMATE DOWELL: Well, I want to go live with

21 brother in Oregon.

22 PRESIDING COMMISSIONER ENG: Is that Bryan,

23 B-R-Y-A-N, Dowell?

24 INMATE DOWELL: Yes.

25 PRESIDING COMMISSIONER ENG: Okay. And for

26 the record, that you did submit a letter, and this

27 dated 11/16/05, from your brother Bryan Dowell,

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1 D-O-W-E-L-L, in Mehama, M -- how do you pronounce  
2 that?

3 INMATE DOWELL: Mehama. Mehama.

4 PRESIDING COMMISSIONER ENG: M-E-H-A-M-A.

5 INMATE DOWELL: Mehama.

6 PRESIDING COMMISSIONER ENG: Mehama.

7 INMATE DOWELL: Yeah.

8 PRESIDING COMMISSIONER ENG: Mehama, Oregon.

9 Okay. And in this letter he states that you are  
10 welcome to stay in his home with his son and  
11 himself any time that you want and for as long as  
12 you wish. He has a drug and alcohol free home and  
13 feels that it would be a good home for you. How  
14 old's his son?

15 INMATE DOWELL: His son? Twelve or fifteen,  
16 I think.

17 PRESIDING COMMISSIONER ENG: Is your brother  
18 divorced, or widowed, or --

19 INMATE DOWELL: Separated.

20 PRESIDING COMMISSIONER ENG: Separated?

21 INMATE DOWELL: Yeah.

22 PRESIDING COMMISSIONER ENG: Does he own his  
23 own home?

24 INMATE DOWELL: Yes.

25 PRESIDING COMMISSIONER ENG: How large is  
26 it?

27 INMATE DOWELL: Three-bedroom, I believe.

1           PRESIDING COMMISSIONER ENG: He only has the  
2 one son?

3           INMATE DOWELL: One child.

4           PRESIDING COMMISSIONER ENG: Okay. What  
5 does your brother do?

6           INMATE DOWELL: He's a millwright for one of  
7 the sawmill companies up there, a warehouser I  
8 believe.

9           PRESIDING COMMISSIONER ENG: How old is he,  
10 your brother?

11          INMATE DOWELL: Forty-seven, I think.

12          PRESIDING COMMISSIONER ENG: So what would  
13 you do up there?

14          INMATE DOWELL: I'll find a job in a machine  
15 shop, or I'll buy and sell equipment (inaudible).

16          PRESIDING COMMISSIONER ENG: Is your brother  
17 in a position to support you financially for an  
18 indefinite amount of time?

19          INMATE DOWELL: Yeah, I'm sure he is. I  
20 mean I don't plan on not going without employment  
21 for, you know, for very long.

22          PRESIDING COMMISSIONER ENG: Have you ever  
23 talked to your brother about what type of impact  
24 it could have on his son by you moving in with  
25 them?

26          INMATE DOWELL: Yeah, I've written him a  
27 couple of times. He doesn't seem to think that --

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1 his son I think stays with his mom two or three  
2 days a week, I think, so I don't think there'd be  
3 a -- you know, any inconvenience or anything.

4 PRESIDING COMMISSIONER ENG: So I'm assuming  
5 -- because you stated that the way you were raised  
6 was with a lot guns. Is that -- I'm assuming that  
7 your brother was raised the same way.

8 INMATE DOWELL: Yeah. I don't even think he  
9 has any guns, or Bryan, I don't think has any  
10 guns.

11 PRESIDING COMMISSIONER ENG: Do you know for  
12 a fact through how he's raised his son in -- I  
13 don't know if that's a small town in Oregon.

14 INMATE DOWELL: It's a very small town.  
15 It's about I think 2300 population, I believe.  
16 It's bigger than -- it's bigger than Fall City,  
17 which is where my mom and dad have their house --  
18 had their house at, just shortly away -- a short  
19 distance from there, and that was a city of only  
20 like 300 population, the same size town that I  
21 grew up in.

22 PRESIDING COMMISSIONER ENG: You understand  
23 why I asked you these questions about the weapons?

24 INMATE DOWELL: Yeah, I understand it.

25 PRESIDING COMMISSIONER ENG: Having weapons  
26 in and around you was part of your everyday life.

27 INMATE DOWELL: Yeah.

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1       PRESIDING COMMISSIONER ENG: I can only  
2       assume that your brother continues to abide by  
3       that, living in a small town.

4       INMATE DOWELL: Oh.

5       PRESIDING COMMISSIONER ENG: It concerns the  
6       panel --

7       INMATE DOWELL: Yeah.

8       PRESIDING COMMISSIONER ENG: -- that you  
9       would want to go and live in that same type of  
10      situation where you're going to be surrounded by  
11      weapons again.

12      INMATE DOWELL: I don't think my brother has  
13      any guns.

14      PRESIDING COMMISSIONER ENG: Sir, I'm sure  
15      you --

16      INMATE DOWELL: Yeah.

17      PRESIDING COMMISSIONER ENG: -- could  
18      understand the concern that --

19      INMATE DOWELL: Yeah.

20      PRESIDING COMMISSIONER ENG: -- the panel  
21      might have with that, and the thought.

22      INMATE DOWELL: Yeah.

23      PRESIDING COMMISSIONER ENG: Okay. And I'm  
24      not saying it does, I don't know.

25      INMATE DOWELL: Yeah.

26      PRESIDING COMMISSIONER ENG: But it is a  
27      thought. Okay. So we've got that letter. We

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1 also have a letter that's dated October 21<sup>st</sup> of  
2 2005 from Julia Perales,  
3 P-E-R-A-L-E-S. So who is this woman?

4 INMATE DOWELL: A aunt by marriage.

5 PRESIDING COMMISSIONER ENG: She states that  
6 she's known you for over 30 years, ex-husband to  
7 her niece, Pauline. Okay. And were does she  
8 live?

9 INMATE DOWELL: Los Angeles.

10 PRESIDING COMMISSIONER ENG: Los Angeles.  
11 Okay. But I think that the -- it looks like this  
12 is just a general support letter, unless I'm  
13 missing something.

14 INMATE DOWELL: No, I think that's what it  
15 is right here.

16 PRESIDING COMMISSIONER ENG: Okay.

17 INMATE DOWELL: I mean --

18 PRESIDING COMMISSIONER ENG: Okay.

19 INMATE DOWELL: -- I could stay there if I  
20 -- but I wouldn't want to burden her to stay  
21 there.

22 PRESIDING COMMISSIONER ENG: Okay. And then  
23 we also have -- I don't know who the -- this is  
24 from a Margaret -- how do you -- A-N-D-A-V-A-Z-O?

25 INMATE DOWELL: Yeah. I'm not sure how to  
26 pronounce that.

27 PRESIDING COMMISSIONER ENG: And there's no

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1 date, there's no signature. I don't know where  
2 she's from. So why don't you tell me who this is.

3 INMATE DOWELL: That's Pauline's sister.

4 PRESIDING COMMISSIONER ENG: Pauline's  
5 sister?

6 INMATE DOWELL: Yes. But she's married to  
7 somebody else.

8 PRESIDING COMMISSIONER ENG: Okay.

9 ~~INMATE DOWELL: Married to someone.~~

10 PRESIDING COMMISSIONER ENG: Okay. We have  
11 a letter. It's just a -- it's general letter.

12 INMATE DOWELL: Yeah.

13 PRESIDING COMMISSIONER ENG: Okay. Okay.

14 She down in Los Angeles too?

15 INMATE DOWELL: Yes.

16 PRESIDING COMMISSIONER ENG: And then again

17 that -- we've got a general support letter dated

18 August 1<sup>st</sup>, 2005 from James Guthrie, G-U-T-H-R-I-E,

19 that Commissioner Filangeri has also stated on the

20 record, and this gentleman is with the Church of

21 Jesus Christ of Latter Day Saints, and it's a

22 general support letter. So, okay. Sir, do you

23 have any plans whatsoever for parole within Los

24 Angeles County or within California?

25 INMATE DOWELL: I would have -- really have

26 no place to live in L.A. County. If I went, I

27 would have to -- if I was to ask my aunt there to



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1 live with her, well, I would -- I'd feel that I  
2 was putting her out and would not -- and I would  
3 -- I wouldn't feel comfortable doing that, and I  
4 would have to live in a halfway house or something  
5 of that nature, when I first went out there, to go  
6 live there because --

7 PRESIDING COMMISSIONER ENG: Have you made  
8 any inquiries into --

9 INMATE DOWELL: Well --

10 PRESIDING COMMISSIONER ENG: -- alternatives  
11 within California?

12 INMATE DOWELL: Actually I did for 2005  
13 hearing that I had, the last hearing, and none of  
14 -- all of those people right there, until I  
15 actually had a date would they even accept an  
16 application.

17 PRESIDING COMMISSIONER ENG: It would help  
18 if we could see the letters that you had written--

19 INMATE DOWELL: Yeah.

20 PRESIDING COMMISSIONER ENG: -- to show us,  
21 to show the panel --

22 INMATE DOWELL: Yeah.

23 PRESIDING COMMISSIONER ENG: -- the level of  
24 effort that you're making in terms of --

25 INMATE DOWELL: Yeah.

26 PRESIDING COMMISSIONER ENG: -- trying to  
27 set yourself up.

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1 INMATE DOWELL: Yeah.

2 PRESIDING COMMISSIONER ENG: It's very  
3 important, which I'm sure you understand, that the  
4 more documentation you can supply to the panel, it  
5 shows us, versus you just sitting there and  
6 telling us --

7 INMATE DOWELL: Yeah.

8 PRESIDING COMMISSIONER ENG: -- that you're  
9 ~~taking control and that you have plans and goals~~  
10 and how your -- you know, what are the steps that  
11 you're taking towards that goal.

12 INMATE DOWELL: Yeah.

13 PRESIDING COMMISSIONER ENG: Because  
14 obviously you want to be able to be  
15 self-sufficient --

16 INMATE DOWELL: Yes.

17 PRESIDING COMMISSIONER ENG: -- okay, once  
18 you're paroled, so we urge that -- you know, we  
19 need to see the documentation to show us that  
20 you're, you know --

21 INMATE DOWELL: Yeah.

22 PRESIDING COMMISSIONER ENG: -- you've got  
23 things set up, and also for financial support.  
24 It's very, very important. It's very difficult,  
25 even without having a record of incarceration, for  
26 people to find positions and employment out there  
27 so -- and the panel does understand that it's

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1 very, very difficult for anyone who's incarcerated  
2 to line up jobs. However, we want to see, again,  
3 documentation as to who are you contacting out  
4 there, what organizations are you trying to use to  
5 seek employment, a lot of different things that  
6 you can do --

7 INMATE DOWELL: Yeah.

8 PRESIDING COMMISSIONER ENG: -- and supply  
9 us with the documentation of that, okay? But  
10 again, that's why it's very, very important to  
11 show that even someone who's going to offer  
12 residential, okay, support to you, to also very  
13 specifically state what other support are they  
14 offering to you, are they offering financial  
15 support in the interim until you can get on your  
16 feet and find employment and start making some  
17 money. Does that make sense to you?

18 INMATE DOWELL: Yeah.

19 PRESIDING COMMISSIONER ENG: So -- because,  
20 you know, there is a transition period that anyone  
21 has to go through. I mean --

22 INMATE DOWELL: Right. I'm aware of that.

23 PRESIDING COMMISSIONER ENG: You know,  
24 you've been in for 23 years.

25 INMATE DOWELL: Yes.

26 PRESIDING COMMISSIONER ENG: It's a  
27 different world out there.

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1 INMATE DOWELL: Yes.

2 PRESIDING COMMISSIONER ENG: So, you know,  
3 nobody expects to you to all of a sudden walk out  
4 the gate and have everything totally set up for  
5 you.

6 INMATE DOWELL: That's --

7 PRESIDING COMMISSIONER ENG: It's a  
8 transition period.

9 ~~INMATE DOWELL: That's exactly why I wanted~~  
10 to go to my brother's house in Oregon.

11 PRESIDING COMMISSIONER ENG: We understand  
12 that, but I also believe that previous panels have  
13 told you that we cannot parole you out of state --

14 INMATE DOWELL: Yeah.

15 PRESIDING COMMISSIONER ENG: Which, because  
16 not knowing what the agreements are between  
17 different states, you really need to have parole  
18 plans specific to if not Los Angeles County,  
19 another county where you've got a full support  
20 network set up and where you have the best chances  
21 of -- you know, to succeed out there, but we --  
22 our hands are relatively tied regarding paroling  
23 people out of state, okay? Have I missed anything  
24 in terms of your other plans?

25 INMATE DOWELL: I don't know if my --

26 PRESIDING COMMISSIONER ENG: Anything else?

27 INMATE DOWELL: The letter I put in there.

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1 for parole plans that I gave the counselor or not.  
2 I don't know if she put it in the file or not,  
3 because I plan --

4 PRESIDING COMMISSIONER ENG: Well, the  
5 only--

6 INMATE DOWELL: -- but --

7 PRESIDING COMMISSIONER ENG: Yeah.

8 INMATE DOWELL: My parole plans really  
9 centered around going --

10 PRESIDING COMMISSIONER ENG: Oregon.

11 INMATE DOWELL: -- to my brother's house and  
12 where I could go to the community college there  
13 and learn how to operate computers and different  
14 things. Even though we have computerized machines  
15 at the machine shop, those are different than the  
16 computers that you run type -- you know, to do  
17 typing and stuff like that on.

18 PRESIDING COMMISSIONER ENG: Okay. Well,  
19 we've sent out Penal Code Section 3042 Notices,  
20 and these notices go to agencies that have a  
21 direct interest in your case. I have not seen any  
22 written responses from any of the agencies,  
23 however, we do have a representative of the Los  
24 Angeles County District Attorney's Office who is  
25 present via video conference and who I'm sure will  
26 be making a statement regarding your parole  
27 suitability prior to us recessing for

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1 deliberations. Right now I don't have any further  
2 questions. Commissioner Filangeri, do you have  
3 any further questions to ask Mr. Dowell?

4 DEPUTY COMMISSIONER FILANGERI: Thank you,  
5 Commissioner Eng. When Commissioner Eng asked you  
6 about the pandering conviction, you said you  
7 offered this gal an opportunity to work off some  
8 money she owed you?

9 ~~INMATE DOWELL: I didn't offer her. I told~~  
10 her that she should go stand on the corner, or I  
11 would send her to somebody that would her out.

12 DEPUTY COMMISSIONER FILANGERI: You would  
13 send to her somebody that would help her out.

14 INMATE DOWELL: Yes.

15 DEPUTY COMMISSIONER FILANGERI: What did  
16 that mean?

17 INMATE DOWELL: That meant that I knew  
18 somebody that was in the business of pandering  
19 and--

20 DEPUTY COMMISSIONER FILANGERI: She was just  
21 going to make the connection?

22 INMATE DOWELL: Yeah.

23 DEPUTY COMMISSIONER FILANGERI: That was it?  
24 There wasn't any other discussion?

25 INMATE DOWELL: There wasn't any other  
26 discussion.

27 DEPUTY COMMISSIONER FILANGERI: Now I want

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1 to read something out of the record then, because  
2 it's -- that's not exactly consistent with what  
3 the record suggests. Geez, I didn't lose it, did  
4 I?

5 INMATE DOWELL: Well, I did explain to her  
6 that how this person would work.

7 DEPUTY COMMISSIONER FILANGERI: Well, why  
8 don't you tell me everything you think I ought to  
9 know about this..

10 INMATE DOWELL: Yeah. Well, that's -- I  
11 didn't know how much -- all I told her was that  
12 the guy would see that nobody would hurt her or  
13 anything like that, and that's all I -- and that's  
14 -- and that he would always be in the next room.

15 DEPUTY COMMISSIONER FILANGERI: Anything  
16 else?

17 INMATE DOWELL: No, that's it right. I --

18 DEPUTY COMMISSIONER FILANGERI: How many  
19 times did you talk? How many times did you talk  
20 to her about this?

21 INMATE DOWELL: One time.

22 DEPUTY COMMISSIONER FILANGERI: One time.

23 Well, it's part of the decision package here. It  
24 talks about a Sergeant Nottingham,  
25 N-O-T-T-I-N-G-H-A-M, and Deputy Peavey, P-E-A-V-Y,  
26 responding to a victim's residence regarding a  
27 complaint that she had been solicited to pander on

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1 2/5/1980. It says that the victim said the  
2 suspect had come to the victim's residence on each  
3 occasion attempting to talk her into becoming a  
4 prostitute and that in this way she could pay off  
5 the back rent, and that she would also be -- that  
6 she would also make some money. It says it  
7 happened in Tuesday, January 29<sup>th</sup>, 1980, Friday,  
8 February 1<sup>st</sup>, 1980, and Monday, February 4<sup>th</sup>, 1980.  
9 ~~She goes on to say that her mother was a part --~~  
10 or the mother told the deputy that it was a party  
11 -- that she was a party of the conversation, a  
12 witness to the conversation, and that suspect  
13 stated to the victim, quote, "You won't have to  
14 hustle here, it will be like dates. The guys I'll  
15 send over will take you out, they're guys that I  
16 owe favors. I'll collect the money from them."  
17 Does that sound familiar?

18 INMATE DOWELL: I think I did on the one --  
19 on the conversation that we had, yes.

20 DEPUTY COMMISSIONER FILANGERI: He goes on  
21 to write about how the deputies were set up to  
22 surveil the apartment, and actually inside the  
23 closet inside the apartment, when the victim went  
24 to a phone booth and suggested that she had  
25 rethought the idea of doing this and invited you  
26 over to talk about it some more. Late in the  
27 afternoon, about 4:50 hours, you responded to that



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1 location. You and the victim seated yourselves in  
2 the dinette table in the kitchen. Suspect and  
3 victim then became engaged in conversation. The  
4 following was overhead by the deputies who were in  
5 the house:

6 Quote, Suspect: "If you don't want  
7 to sell your ass, I don't know how  
8 else you'll be able to pay the back  
9 rent." Victim: "How will it work?"  
10 Suspect: "You won't have to turn  
11 tricks in front of your kids. I  
12 won't be that cold. I'll pick you  
13 up and take you to a motel and I'll  
14 wait in the next room. Then I'll  
15 send the customers to your room."  
16 Victim: "Then what?" Suspect:  
17 "The customer will say, 'Is Kenny  
18 here?' and that will let you know  
19 that they're all right. I know a  
20 few prostitutes, and they tell me  
21 that they get 20 or 30 dollars an  
22 hour. You can spend a couple of  
23 hours with each customer, then you  
24 can collect the money or they can  
25 pay me, or I'll settle up with you  
26 later."  
27 They go on to quote the conversation: Do you recall

1 anything like that?

2 INMATE DOWELL: That was the one  
3 conversation that we had with -- when her mother  
4 was present, but -- and then when they came over,  
5 she was telling me that the decision was not to do  
6 that, and we had that conversation at that time  
7 right there.

8 DEPUTY COMMISSIONER FILANGERI: And what  
9 happened next?

10 INMATE DOWELL: And they arrested me.

11 DEPUTY COMMISSIONER FILANGERI: Who arrested  
12 you?

13 INMATE DOWELL: The sheriff's department  
14 arrested me.

15 DEPUTY COMMISSIONER FILANGERI: Were they  
16 right there when you were having the conversation?

17 INMATE DOWELL: No. I went outside. I was  
18 -- I went outside, and then came outside and  
19 arrested me.

20 DEPUTY COMMISSIONER FILANGERI: So they were  
21 inside where you were inside.

22 INMATE DOWELL: Yeah.

23 DEPUTY COMMISSIONER FILANGERI: And then  
24 they stepped out to arrest you.

25 INMATE DOWELL: Yeah. But we already  
26 decided that we weren't going to do this, and then  
27 I went on outside.

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1           DEPUTY COMMISSIONER FILANGERI: So there  
2 must have been more conversation than what they  
3 quoted, because there wasn't anything in there --

4           INMATE DOWELL: Yeah.

5           DEPUTY COMMISSIONER FILANGERI: -- that said  
6 you weren't going to do it.

7           INMATE DOWELL: Yeah, well, I -- that's why  
8 I went outside, and it was it, and I -- they came  
9 out -- and then they came out and arrested me.

10          DEPUTY COMMISSIONER FILANGERI: The report.  
11 reflects that the people in the closet gave the  
12 prearranged arrest signal over the radio, which  
13 then summoned the detectives, who were outside, to  
14 the door. The victim actually answered the door  
15 while you were still inside the house.

16          INMATE DOWELL: Yeah.

17          DEPUTY COMMISSIONER FILANGERI: They entered  
18 the house, and that's where you were placed under  
19 arrest.

20          INMATE DOWELL: No, I think I was out on the  
21 porch and I was -- I think I was leaving, but it  
22 might have been, yeah, because I can't really  
23 recall every detail of it.

24          DEPUTY COMMISSIONER FILANGERI: How about  
25 this 417? Oh, excuse me. You were -- I should  
26 point out that you were on probation from that  
27 conviction when you committed the life crime.

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1 INMATE DOWELL: Yes, I was.

2 DEPUTY COMMISSIONER FILANGERI: All right.

3 What about this 417 way back in 1970? Do you  
4 remember that? Oh, 4-7 -- I'm sorry, exhibited a  
5 firearm. You were convicted of exhibiting a  
6 firearm?

7 INMATE DOWELL: Oh, yeah.

8 DEPUTY COMMISSIONER FILANGERI: Do you  
9 recall that?

10 INMATE DOWELL: Yeah. That was the one that  
11 I explained that where we were coming back from a  
12 camping trip and we were unloading the things, and  
13 then everybody was drinking and two people got in  
14 argument, in a fight, and somebody called the  
15 cops, and then they came there, we were out in the  
16 driveway, and it was about dusk in the evening  
17 hours, and it was -- I don't know, September, I  
18 guess, so it was a little chilly. I had a -- my  
19 friend's coat on, and -- because I had misplaced  
20 mine, I didn't know if it was in the -- bundled up  
21 in the stuff and everything, and this was laying on  
22 the seat, so I just put it on, and he was being  
23 treated for alcoholism, and so he was taking these  
24 pills, and I had them in the pocket, and I had  
25 this knife, hunting knife on my side, and then  
26 they arrested me, charged me with possession, took  
27 me down to the -- and then they charged me

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1 possession of a weapon, and then when it went to  
2 court and everything, they said it was for  
3 brandishing a firearm. I pleaded guilty for  
4 brandishing a firearm, and then we went to -- and  
5 I was on probation for a year for that, and then--

6 DEPUTY COMMISSIONER FILANGERI: You have a  
7 really good memory of that.

8 INMATE DOWELL: I done the probation. Oh,  
9 yeah, well, it actually happened --

10 DEPUTY COMMISSIONER FILANGERI: Right.

11 INMATE DOWELL: -- to me right there.

12 DEPUTY COMMISSIONER FILANGERI: So you're  
13 saying you pled guilty to brandishing a firearm --

14 INMATE DOWELL: Yeah.

15 DEPUTY COMMISSIONER FILANGERI: -- because  
16 you had a sheath knife in the sheath --

17 INMATE DOWELL: Yeah.

18 DEPUTY COMMISSIONER FILANGERI: -- on the  
19 side of your --

20 INMATE DOWELL: Belt.

21 DEPUTY COMMISSIONER FILANGERI: -- belt.

22 INMATE DOWELL: Yeah. And they said it was  
23 an illegal weapon because it was covered up with a  
24 coat.

25 DEPUTY COMMISSIONER FILANGERI: And how did  
26 you justify pleading guilty to brandishing a  
27 firearm?

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1           INMATE DOWELL: Well, they said plead guilty  
2 to this and you'll have probation for a year, and  
3 I said okay.

4           DEPUTY COMMISSIONER FILANGERI: Okay. I  
5 think that's -- no, I think that's all the  
6 questions I had. Thanks very much.

7           PRESIDING COMMISSIONER ENG: Okay. Mr.  
8 Jacobs, do you have any questions to pose to Mr.  
9 Dowell?

10          DEPUTY DISTRICT ATTORNEY JACOBS: Yes, I do.  
11 Mr. Dowell referred to Pauline as his wife. Was  
12 he married to her?

13          PRESIDING COMMISSIONER ENG: Mr. Dowell,  
14 were you married to Pauline?

15          INMATE DOWELL: We were married in a common  
16 law marriage.

17          PRESIDING COMMISSIONER ENG: Did you hear  
18 the response, Mr. Jacobs?

19          DEPUTY DISTRICT ATTORNEY JACOBS: Yes. And  
20 how long did the prisoner live with her?

21          INMATE DOWELL: From 1970 to 1979 I think it  
22 was, '78 or '79.

23          PRESIDING COMMISSIONER ENG: So eight or  
24 nine years.

25          INMATE DOWELL: Yeah.

26          PRESIDING COMMISSIONER ENG: You were living  
27 together.

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1 INMATE DOWELL: Yes.

2 PRESIDING COMMISSIONER ENG: Okay.

3 DEPUTY DISTRICT ATTORNEY JACOBS: Why did  
4 the prisoner not marry her?

5 INMATE DOWELL: Pauline was previously  
6 married to someone else already.

7 PRESIDING COMMISSIONER ENG: So she was not  
8 divorced at the time that you were living  
9 together?

10 INMATE DOWELL: No.

11 PRESIDING COMMISSIONER ENG: All right.

12 DEPUTY DISTRICT ATTORNEY JACOBS: The  
13 prisoner I believe stated that he only hit Pauline  
14 one time. I have a police report here, this would  
15 be page 8 of the Homicide Supplemental Report  
16 within the Lifer Package, and it states that in  
17 September of 1980, when she was living in a house  
18 on Seafort Avenue, the suspect came to the house  
19 and kicked in her bedroom door and began yelling  
20 and threatening her. Did that occur?

21 PRESIDING COMMISSIONER ENG: Sir, do you  
22 have any recollection of that?

23 INMATE DOWELL: That's the argument I was  
24 speaking of that we -- that when -- and I was  
25 living there at the time.

26 PRESIDING COMMISSIONER ENG: This is the one  
27 that escalated to the point that you pushed her?

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1 INMATE DOWELL: Yeah.

2 PRESIDING COMMISSIONER ENG: Okay.

3 DEPUTY DISTRICT ATTORNEY JACOBS: On the  
4 next page, that would be page 9, it states that  
5 she said during their 12-year relationship the  
6 suspect has beat her up on numerous occasions and  
7 threatened anybody that she has ever gone out  
8 with. Is that true or not true?

9 INMATE DOWELL: That's incorrect. I don't--

10 PRESIDING COMMISSIONER ENG: So why would  
11 she make that claim?

12 INMATE DOWELL: I have no idea.

13 DEPUTY DISTRICT ATTORNEY JACOBS: Okay.

14 Now the prisoner has indicated that he has no  
15 chronos for AA; is that correct?

16 INMATE DOWELL: No, I have chronos for AA.

17 PRESIDING COMMISSIONER ENG: Weren't they in  
18 -- what -- you attended -- wasn't the last time I  
19 thought was in '95? Is that what you said? Or  
20 no, wait a minute.

21 INMATE DOWELL: The last time I attended was  
22 the first week of November.

23 PRESIDING COMMISSIONER ENG: That's right.  
24 That's right. Because I have in here -- I thought  
25 that you like -- there's documentation --

26 DEPUTY DISTRICT ATTORNEY JACOBS: Has he  
27 got--



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1           PRESIDING COMMISSIONER ENG: -- from 1991 to  
2     the present, correct? That was your -- yes. No,  
3     he has them.

4           DEPUTY DISTRICT ATTORNEY JACOBS: Okay.  
5     Does he have recent chronos?

6           PRESIDING COMMISSIONER ENG: Didn't you say  
7     you had November?

8           INMATE DOWELL: Yeah. I have October  
9     chronos.

10          PRESIDING COMMISSIONER ENG: October  
11     chronos?

12          INMATE DOWELL: Yes.

13          DEPUTY DISTRICT ATTORNEY JACOBS: Do you  
14     have any -- does the prisoner have any other  
15     chronos for the years 2006 or 2005?

16          INMATE DOWELL: What, AA chronos?

17          DEPUTY DISTRICT ATTORNEY JACOBS: That'll be  
18     correct.

19          INMATE DOWELL: Yeah, I believe there are  
20     some in the file.

21          DEPUTY DISTRICT ATTORNEY JACOBS:  
22     Commissioner, is there any in the file? I have no  
23     record of such.

24          DEPUTY COMMISSIONER FILANGERI: I didn't --  
25     I'm sorry.

26          PRESIDING COMMISSIONER ENG: For AA, yeah.

27          DEPUTY COMMISSIONER FILANGERI: The last AA

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1 chrono I saw in the file, as I said earlier, was  
2 in December of 2005 for the fourth quarter of  
3 2005. That's the last one.

4 INMATE DOWELL: Yeah.

5 PRESIDING COMMISSIONER ENG: That's what I  
6 thought.

7 DEPUTY COMMISSIONER FILANGERI: I looked for  
8 more, and didn't see them, if any of you hear  
9 that.

10 INMATE DOWELL: Yeah.

11 ATTORNEY HAWKINS: He meant --

12 DEPUTY DISTRICT ATTORNEY JACOBS:

13 (inaudible).

14 PRESIDING COMMISSIONER ENG: I got confused.

15 DEPUTY DISTRICT ATTORNEY JACOBS: The last  
16 question is, in the 2002 hearing that the -- that  
17 was held with the prisoner, does the prisoner  
18 remember Commissioner Moore telling him that  
19 "Although you said you had gone to AA one day a  
20 month, in order to get chronos you have to  
21 participate on a daily basis, or I mean on a  
22 weekly basis"? Does the prisoner remember that  
23 statement made to him?

24 INMATE DOWELL: Yes, something like that.  
25 That was two or three hearings ago.

26 PRESIDING COMMISSIONER ENG: No, I believe  
27 Mr. Jacobs is referring to the 2003 Board Hearing;

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1 is that correct, Mr. Jacobs?

2 DEPUTY DISTRICT ATTORNEY JACOBS: No, 2002  
3 Board Hearing.

4 PRESIDING COMMISSIONER ENG: Oh, the 2002  
5 Board Hearing, I'm sorry. Okay.

6 DEPUTY DISTRICT ATTORNEY JACOBS: Yes.

7 PRESIDING COMMISSIONER ENG: Yeah.

8 DEPUTY DISTRICT ATTORNEY JACOBS: My next

9 ~~question would be what self-help does the latter~~  
10 Day Saints Church provide other than regular  
11 church services?

12 INMATE DOWELL: Discussions of life  
13 experiences.

14 DEPUTY DISTRICT ATTORNEY JACOBS: I have no  
15 further questions.

16 PRESIDING COMMISSIONER ENG: Okay.  
17 Counselor, do you have any questions that you'd  
18 like to pose to your client at this point?

19 ATTORNEY HAWKINS: No.

20 PRESIDING COMMISSIONER ENG: Okay. We'll

21 move on to closing statements. Mr. Jacobs?

22 DEPUTY DISTRICT ATTORNEY JACOBS: Thank you.  
23 It's the position of the District Attorney's  
24 Office of Los Angeles County that the prisoner  
25 still represents a danger to the community should  
26 he be released on parole, and the reason for that  
27 is that he minimizes his responsibility for the

1 murder. Some of his statements about the crime  
2 are at odds with the proof, and he has not  
3 programmed in the manner requested by the Board.  
4 In regards to responsibility, he tends to minimize  
5 his responsibility in several ways. With the  
6 exception of the 2006 report, he refers to himself  
7 as being young and foolish at the time of the  
8 murder and part of the reason why he committed it.  
9 I would like to point out to the Board that the  
10 prisoner was 36 years of age at the time, four  
11 years shy of that psychiatrically magic age of 40  
12 when murder becomes unthinkable. The man had four  
13 children and had gone through one real marriage  
14 and one common law marriage. For him to even  
15 attempt to use this as a mitigating circumstance  
16 demonstrates that he really doesn't understand the  
17 dynamics that led him to kill Mr. Winnet. As Dr.  
18 Inaba stated in her 2000 psych report, "It's  
19 important for the prisoner to psychologically" --  
20 let me rephrase that. "It is important for the  
21 prisoner to psychologically to maintain an image  
22 of himself as a nonviolent person at the expense  
23 of truly trying to understand the personality and  
24 behavioral characteristics which had led to the  
25 murder." And in addition, he still attempts to  
26 blame his voluntary intoxication for the crime,  
27 even though he denied use of alcohol to the

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1 probation officer, and did not appear intoxicated  
2 to his girlfriend, who had lived with him for ten  
3 years. We now know that the prisoner has an  
4 alcohol abuse problem. So what has he done about  
5 it? He's attended AA intermittently so he could  
6 maintain his pay job and attend night school, and  
7 that was in the 1998 Board Report. The prisoner's  
8 problem is alcohol, and that should be his number  
9 one focus. ~~According to his post-conviction~~  
10 progress reports, the prisoner has attended a  
11 total of 36 months of AA since 1983. That's 36  
12 months out of 276 months, or 13 percent of the  
13 time. I feel very uncomfortable with this number  
14 because the prisoner was warned that in order to  
15 get quarterly chronos he would have to attend AA  
16 more than once a month. If he would rather hold a  
17 pay position than attend AA regularly, then he  
18 shouldn't expect a parole date when it comes time  
19 to review his case. In regards to his statements  
20 ~~in regards to the crime, he claims self-defense,~~  
21 but the evidence is against him, which was  
22 believed by a jury, and that is that the prisoner  
23 pulled a weapon, a handgun, fired two shots at Mr.  
24 Winnet before Mr. Winnet ever armed himself. When  
25 he sufficiently wounded Mr. Winnet, and Mr. Winnet  
26 raised his arms in surrender, the prisoner then  
27 emptied a 12-gauge shotgun into him, which was an

1 execution pure and simple. And although Pauline's  
2 girlfriend might have backtracked a bit regarding  
3 her kidnapping when she talked to the probation  
4 officer, she never altered her statements in  
5 regards to the shooting. Although the prisoner  
6 was charged with a first degree special  
7 circumstance murder, the jury gave him a break and  
8 convicted him of second degree murder.  
9 Disregarding the prisoner's statements of intent  
10 both to Pauline and to Mr. Winnet, it is rather  
11 obvious that the shooting, if not the murder, was  
12 premeditated because the prisoner not only parked  
13 his car behind a wall and snuck into Pauline's  
14 apartment in hopes of catching her in bed with Mr.  
15 Winnet, the Board recalls he entered in the dark  
16 of night and yanked the blankets off of her,  
17 demanding to know where Mr. Winnet was. He also  
18 searched the neighborhood for the victim, and when  
19 he found him, he was armed not only with one gun,  
20 which he claimed to use for protection because he  
21 carried large sums of money, but two guns, both of  
22 which he emptied at Mr. Winnet. Other statements  
23 peripheral to the crime intending to show the  
24 prisoner in good light are his representations to  
25 some correctional counselors that he owned his own  
26 business, which in fact was a part-time backyard  
27 fix-it shop that brought in about 250 dollars a

1 month, according to the probation report. He also  
2 held himself out in various reports as a high  
3 school graduate but he could never produce proof  
4 of such, and the probation report for the life  
5 crime has him dropping out after completing the  
6 eleventh grade. The most glaring example of the  
7 prisoner's inability or refusal to face the truth  
8 is the statement he gave to his correctional  
9 counselor (inaudible). ~~He claims that Pauline~~  
10 called him the day before regarding her car, and  
11 he came over in the early morning hours to discuss  
12 this with her. This is the first time the  
13 prisoner has claimed Pauline contacted him and  
14 asked him to come over. In fact, when the  
15 prisoner did come over to Pauline's bedroom in the  
16 dark and yanked the sheets off of her, he asked  
17 her, "Where is Wolf?" He makes no mention of the  
18 death threats made towards both Pauline and the  
19 victim Winnet, nor does he discuss searching for  
20 ~~the victim, both at the bail bond's office and~~  
21 twice at a local bar. He never explained why he  
22 parked his truck in the Zodi's parking lot, which  
23 was separated from Pauline's apartment complex by  
24 a cement block wall that was so high that Pauline  
25 had to climb up on a van and have the prisoner  
26 boost her onto the wall in order to get over the  
27 wall from her apartment to where his pickup truck

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1 was parked. In fact, he tells a correctional  
2 counselor that he drove back to Pauline's  
3 apartment, parked in the stall in the apartment  
4 parking lot, and that's when he got wedged in.  
5 The only problem with that statement is that the  
6 prisoner's pickup, Winnet's van, Winnet's corpse,  
7 and prisoner's arrest all took place in the Zodi's  
8 parking lot, which again, was separated from the  
9 apartment complex that Pauline lived in by a tall  
10 cinderblock wall. He claims Winnet pulled his gun  
11 first and that the prisoner -- and that he shot  
12 him in self-defense. Never happened. Forget --  
13 he forgets to mention that he emptied his .38 into  
14 Winnet and Winnet attempted to surrender. He then  
15 -- the prisoner then returned to his truck, got a  
16 shotgun, and emptied that into the victim. He is  
17 not required to admit the crime nor is he required  
18 to discuss the crime with the Board or CDC staff,  
19 however, the prisoner chose to discuss the facts  
20 of this case, and as expected, he will be candid  
21 and truthful. If he is otherwise, it's a sure  
22 indication that he's not ready for parole.  
23 Lastly, the Board and various clinicians and  
24 correctional counselors have either ordered or  
25 suggested that the prisoner get a GED, yet the  
26 prisoner has not yet done so. He has attained  
27 high marks in Heating and Refrigeration, and even



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1 if he has dyslexia, he is obviously capable of  
2 earning his GED, however, he might have to give up  
3 his pay job in order to do so, which will cut into  
4 his comfort zone. He -- the prisoner has to make  
5 a decision: does he want to comply with the  
6 Board's requests and suggestions to prepare  
7 himself for parole, or would he rather program in  
8 a manner that suits him? The choice is his. I

9 ~~also note that the motive for the murder was~~  
10 jealousy, and Pauline said she broke up with the  
11 prisoner because he beat her up. The prisoner has  
12 obvious anger and relationship issues, yet he's  
13 taken only three courses in self-help outside of  
14 the his occasional AA. Dr. Inaba in his -- in her  
15 2000 psych report recommended that the prisoner  
16 should participate in programs that offer violence  
17 prevention strategies, victim awareness, coping  
18 with dyslexia, relationship skills, and substance  
19 abuse relapse prevention. The prisoner would also  
20 ~~benefit from psychotherapy which would offer an~~

21 opportunity -- him an opportunity to face his  
22 insight into his own impulses and behavior. He  
23 could benefit from therapy and participation in  
24 psycho-educational groups. The lack of sufficient  
25 programming was also noted by the 2003 panel. In  
26 summation, if the prisoner can't abide by the  
27 requests and recommendations of the Board and CDC

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1 personnel, why should we suppose that he will obey  
2 the orders and suggestions of his parole officer?  
3 If the prisoner is given an order that he finds  
4 offensive, that interferes with his enjoyment of  
5 life, why should we believe that he will go along  
6 with the requests by the parole officer in the  
7 community when he fails to do so in a controlled  
8 environment? If he will build himself up with  
9 puff pieces in prison, why should we expect him to  
10 be candid with his parole officer? In almost  
11 every psych report condition, their opinion of the  
12 prisoner's violence potential on his abstinence  
13 from alcohol but he won't regularly attend AA  
14 here. Why should we believe he would do so in the  
15 free society? Actions speak louder than words,  
16 and the prisoner's actions shout out that he's not  
17 ready for parole. Just based upon the prisoner's  
18 recitation of his most recent version of the  
19 crime, a multi-year denial seems warranted. Thank  
20 you.

21 PRESIDING COMMISSIONER ENG: Thank you.

22 Miss Hawkins, closing statement?

23 ATTORNEY HAWKINS: As Mr. Jacobs' statement  
24 makes clear and some of the questions that were  
25 asked today and answers provided by Mr. Dowell, in  
26 the years leading up to the commitment offense,  
27 it's clear that Mr. Dowell lived an (inaudible)

1 life. He had only an eighth grade education, he  
2 had a drinking problem, he didn't properly know  
3 how to deal with --

4 PRESIDING COMMISSIONER ENG: Excuse me one  
5 second. Mr. Jacobs, can you put it on --

6 DEPUTY DISTRICT ATTORNEY JACOBS: Yes.

7 PRESIDING COMMISSIONER ENG: -- mute? Could  
8 you put yours on mute, because we can hear all the  
9 papers moving.

10 DEPUTY DISTRICT ATTORNEY JACOBS: Oh, I'm  
11 sorry.

12 PRESIDING COMMISSIONER ENG: That's all  
13 right. Thank you. Okay. Continue. I'm sorry.

14 ATTORNEY HAWKINS: That's all right. He  
15 didn't know how to deal with emotions that seem  
16 fairly commonplace to us, such as jealousy and  
17 anger. As Mr. Jacobs pointed out, he wasn't a  
18 young child when he committed this offense. At  
19 the same time, given his family background, the  
20 way he was raised, the community that lived in, he  
21 simply was ill equipped to deal with the types of  
22 situations that he was put into. None of these  
23 facts obviously forgive or excuse his actions, or  
24 the murder that he committed, and Mr. Dowell is  
25 not here today to suggest that; rather, it's to  
26 show you the type of person that he was back then,  
27 and the limited tools that he had to deal with

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1 this situation. It's clear that in the 23 years  
2 that he's been incarcerated that he's changed,  
3 that he has taken advantage of the programming  
4 that has been offered to him, particularly in the  
5 last three years, since the 2004 hearing, when the  
6 Board recommended to him that he regularly attend  
7 AA meetings. He has not attended them  
8 sporadically, as suggested, but rather made a  
9 concerted effort to go on a more regular basis,  
10 and he has understood, as pointed out in the psych  
11 assessment, why that is important and why that  
12 would be necessary when he is released back into  
13 back into society to have the support of  
14 Alcoholics Anonymous. In addition to that, the  
15 main constant in Mr. Dowell's life here in prison  
16 has clearly been his vocational experience. He's  
17 received numerous laudatory chronos pointing out  
18 his successful development, how he's helped out  
19 San Quentin. I am sure that they will be sorry to  
20 see him leave, but it will be something that will  
21 help him to reenter back into society to provide  
22 financial stability for himself. Throughout his  
23 time in prison, Mr. Dowell's self-development has  
24 gone hand-in-hand with his spiritual development,  
25 and he has been -- he hasn't become a member of  
26 LDS. He'll need to be baptized in order to do  
27 that, and he plans to do that when he is released,

1 but LDS is well known for being the type of church  
2 that not only it has a well in the community but  
3 is alcohol and substance free, as well as violence  
4 free; and Mr. Dowell's siblings are all members of  
5 the LDS church in their very small community, as  
6 he explained earlier today, and he has every  
7 intention to attend an LDS church whether he's  
8 able to obtain an interstate transfer to Oregon,  
9 ~~or whether he is released into the Los Angeles~~  
10 County. Clearly, the LDS community is vibrant and  
11 present in both of those communities. Mr. Dowell  
12 has worked hard during his years in prison to  
13 maintain contact with his family members. He has  
14 expressed, as he explained today, a desire that  
15 his children not visit him in prison, but at the  
16 same time he has tried to maintain a relationship  
17 with them by writing letters, as well as to  
18 friends and family, despite the fact that he is  
19 dyslexic. I think there's been a lot of emphasis  
20 ~~placed on the fact that Mr. Dowell has not been~~  
21 able to obtain his GED. At the same time, it's  
22 not true that he hasn't tried to do so. He  
23 clearly took the test recently and was unable to  
24 pass the mathematics portion. I think there may  
25 be a misunderstanding about the -- his condition  
26 of dyslexia, which does affect his reading  
27 ability, but as he mentioned, causes him to

1 transpose numbers, which is indicia of dyslexia  
2 and would affect his math abilities, and that he  
3 has tried, through the prison system and with his  
4 counselor, to figure out how to take this test in  
5 a specialized manner, but has not yet been able to  
6 do so, but they are among his plans. At the last  
7 Board Hearing the District Attorney stated that,  
8 quote, "Mr. Dowell is one of those individuals  
9 that strikes me that he holds the key to his  
10 prison cell," and the DA argued that Mr. Dowell  
11 had not taken the actions to use that key. And at  
12 the Board -- at the Board's recommendation, they  
13 said to him that in two years, which has now been  
14 extended to three years, if he had continued to  
15 attend AA meetings and otherwise demonstrated that  
16 he could remain disciplinary free, which he has  
17 clearly done, that he would have demonstrated his  
18 readiness to go back into society, and Mr. Dowell  
19 in addition to doing those things that have been  
20 asked of him, has really demonstrated that he has  
21 become a more reflective person. He's able to  
22 discuss the facts of the crime. He did not sit  
23 here today and claim self-defense about what  
24 happened. Many of the reports that were read by  
25 the DA were things that were discussed in the  
26 1995, 1998 time period. Since then, Mr. Dowell  
27 has continued to go to AA, has continued to go to

1 his LDS self-help program. One would hope that in  
2 eight years' time that he would be given a chance  
3 to demonstrate that he has learned something, that  
4 he has changed, and to simply quote passages from  
5 things that have happened so long ago simply is  
6 not fair, nor is it the proper assessment --

7 [Thereupon, a new tape was begun.]

8 **DEPUTY COMMISSIONER FILANGERI:** Side one of  
9 ~~tape two of the Parole Consideration Hearing for~~  
10 Mr. Kenneth Dowell, D-O-W-E-L-L, C number 78669.  
11 Sorry for the interruption. Go ahead.

12 **ATTORNEY HAWKINS:** Many of the concerns that  
13 have been expressed in the psych reports in the  
14 past, as well as by the Board, is an issue that  
15 exists for every single inmate here in San  
16 Quentin, which is basically they exist in a  
17 controlled environment, how are we to know that  
18 when released back into society that they will  
19 continue to do certain things, continue to have  
20 ~~behavior that is acceptable, and Mr. Dowell has~~  
21 demonstrated that those activities which he finds  
22 necessary in order to survive inside are the exact  
23 same things that he will do when he is released  
24 out into society, those things being AA. Clearly  
25 those groups exist outside. LDS, the church is  
26 there for him. His family is there for him also  
27 in the LDS community. His vocational expertise,

1    which he has clearly demonstrated, as gone through  
2    by the panel here today, and will hopefully  
3    transition him properly into society.  He has  
4    expressed that the Oregon situation seems ideal  
5    for him, and as Commissioner Eng pointed out,  
6    there are -- there is clearly the additional peril  
7    of obtaining interstate transfer.  Mr. Dowell has  
8    looked into that situation along with his  
9    counselor here at San Quentin and is in the  
10   situation which he mentioned with respect to the  
11   halfway houses, which is, until he has been  
12   granted parole, he cannot set the wheels in motion  
13   to obtain that transfer, but he has put all the  
14   pieces in place so that when he is able to start  
15   that process, he will be in the best position  
16   possible to obtain that transfer.  Assuming that  
17   doesn't happen at time, Mr. Dowell does have  
18   family in the L.A. area.  His aunt has indicated  
19   that she would be willing to take him in.  
20   ~~Even though he feels that it would be a burden,~~  
21   there is still that possibility, and he has looked  
22   into some halfway houses, and clearly the job  
23   skills, they exist no matter where he goes.  So  
24   there is a stable environment out there.  There  
25   are institutions in place that are the same as the  
26   ones here that will continue to help him, and it's  
27   clear that while nothing can change the harm that



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1 Mr. Dowell caused, and he expressed that here  
2 today, that he has changed himself. He is not the  
3 person that, as he stated, sometimes didn't think  
4 about the repercussions of his actions, rather,  
5 he's a person who now, because of the skills and  
6 the tools that he's gained by being here for the  
7 past 23 years, is someone who can become a  
8 productive member of society, and his minimum  
9 ~~eligible parole date, as mentioned, was 1992.~~  
10 He's gone through a lot since then. He has served  
11 the time that is commensurate with his sentence  
12 and demonstrated that it's time for him to be  
13 released. Thank you.

14 **PRESIDING COMMISSIONER ENG:** Mr. Dowell,  
15 this is your opportunity to address the panel  
16 regarding your parole suitability if you so  
17 choose.

18 **INMATE DOWELL:** I feel that I am suitable  
19 for parole today for the simple reason that I --  
20 ~~as my attorney has stated, I have taken a number~~  
21 of classes and everything to get in touch with my  
22 inner self and my feelings about what caused me to  
23 do some of these things, and my inability to have  
24 the forethought of empathy before you take your  
25 actions of why -- of when you do something.  
26 Before you drink two beers, or three beers, and  
27 get in a car and go driving somewhere, to think

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1 that we should not do that because we could run  
2 over people, or fail to hit the brakes on time  
3 anyway, even though you don't attend [sic] to  
4 those things, those are things that you know that  
5 can happen to you, and by going to AA and working  
6 the steps through that, I've actually been going  
7 to AA since 1987, and when I was incarcerated in  
8 Soledad penitentiary, though I started AA there,  
9 and I carried it all the way through. There was a  
10 period of about three years here that I could not  
11 attend on a regular basis to AA, but since the  
12 last parole hearing prior to this one, I have  
13 attended weekly for, and I've only missed -- in  
14 six years I think I've missed seven meetings, and  
15 I do work the steps completely, and where you take  
16 your step four and you take that searching and  
17 moral inventory of yourself and what brought you  
18 to this point in your life, and what you've done  
19 to other people, and so that all of these things,  
20 every time you make a decision to do something,  
21 plays a real important role in what your next step  
22 and what you're going to do, and some of the  
23 things, I'm not very proud of some of the things  
24 that I've done over my life and everything, and  
25 but I can't correct those things. That's one  
26 factor in my life that I will always have to do  
27 nothing but pray that I have forgiveness in order

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1 to exist in my life and everything, and I thank  
2 you.

3 PRESIDING COMMISSIONER ENG: Okay. We'll  
4 now recess for deliberation. The time is 12:32.

5 R E C E S S

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CALIFORNIA BOARD OF PAROLE HEARINGS

D E C I S I O N

DEPUTY COMMISSIONER FILANGERI: Okay. Back on record.

PRESIDING COMMISSIONER ENG: Okay. The time is 1:03 p.m., and let the record note that everyone who was in the room prior to our recess has now returned. In the matter of Kenneth Dowell, the panel has reviewed all the information received and relied on the following circumstances in concluding that the prisoner is not suitable for parole and would pose an unreasonable risk of danger to society or a threat to public safety if released from prison. In reference, the commitment offense was carried out in an especially cruel and/or callous manner. There were multiple victims attacked, injured and/or killed in the same or separate incidents, basically, your common law wife and Mr. Winnet.

The offense was carried out in a very dispassionate and calculated manner, such as execution style murder. Specifically, Mr. Winnet had his hands up after the two of you were exchanging gunfire, had his hands up and was giving up, and you still proceeded to take your shotgun and shoot him again and which caused his

KENNETH DOWELL C-78669 DECISION PAGE 1 11/30/06

1 demise. The offense was carried out in a manner  
2 which demonstrates an exceptionally callous  
3 disregard for human suffering, and the motive for  
4 the crime is inexplicable or very trivial in  
5 relation to the offense, and it was really based  
6 on jealousy. These conclusions are drawn from the  
7 Statement of Facts, which I had previously read  
8 into the record earlier, and again, it's very

9 ~~difficult for us to understand what was in your~~  
10 mind at that time where you had ample time to  
11 cease and desist in the killing of Mr. Winnet.  
12 The two of you, he got out of his vehicle, you got  
13 out of your vehicle, you started shooting him and  
14 he was trying to give up, and you proceeded to  
15 grab another weapon, and ended up killing the man.  
16 The prisoner has an escalating pattern of criminal  
17 conduct. Specifically, your record of public  
18 drunkenness, drunk driving, brandishing a firearm  
19 and pandering, that all have led up to the life  
20 ~~crime. You've got a somewhat history of unstable~~

21 or tumultuous relationships with others,  
22 specifically with Pauline, who was the victim and  
23 your common law wife. The inmate has failed  
24 previous grants of probation, failed to profit  
25 from society's attempts to correct his  
26 criminality, and the attempts included adult

27 KENNETH DOWELL C-78669 DECISION PAGE 2 11/30/06

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1 probation, and I can't remember if you were on  
2 probation at the time of the life offense or not.  
3 The prisoner has programmed in a limited manner  
4 while incarcerated, and failed to upgrade  
5 educationally and vocationally as previously  
6 recommended by the Board. He's not sufficiently  
7 participated in beneficial documented self-help  
8 and/or therapy programs. The psychological  
9 report, and I'm going to refer to both of these.  
10 The recent one, dated May 2<sup>nd</sup> of 2006, and the one  
11 dated September 27<sup>th</sup> of 2000, because they were  
12 both authored by the same doctor, Michelle Inaba,  
13 I-N-A-B-A. We found that the recent one is  
14 conditionally supportive but felt that it really  
15 failed to answer the previous panel's requests,  
16 specifically -- let me see if I can find it. The  
17 previous panel had asked the psychologist to  
18 address the significance of alcohol as it related  
19 to the commitment offense, and to estimate the  
20 prisoner's ability to refrain from the use of same  
21 when released, the extent to which the prisoner  
22 has explored the commitment offense and come to  
23 terms with the underlying causes and the need for  
24 future therapy programs while incarcerated. When  
25 you take a look at the psychological evaluation of  
26 2006, one thing that I became very alarmed at is  
27 KENNETH DOWELL C-78669 DECISION PAGE 3 11/30/06

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1 on the bottom of page 3 of the 2006 evaluation,  
2 Dr. Inaba states that: "He would not expect to  
3 have a problem with relapse into the use of  
4 alcohol as he, quote, 'hasn't thought about  
5 drinking for years,' unquote." The panel finds  
6 that that is not an adequate explanation for what  
7 the previous panel was asking for. So, however,  
8 the 2006 report, she does go on to state that any  
9 ~~return to the use of intoxicants would change his~~  
10 prognosis, but failed to say how that would change  
11 his prognosis and what risk there would be to the  
12 community, but states that he would be expected to  
13 be at low risk of violence in a controlled  
14 environment. The reason why I state that, go back  
15 to the 2000 psychological evaluation by Dr. Inaba,  
16 is that it was fairly negative but yet still  
17 didn't -- the 2006 one didn't adequately address  
18 any of the risks and the concerns that Dr. Inaba  
19 had stated in the 2000 one. In reference to the  
20 ~~-- your parole plans, sir, we feel that the~~  
21 prisoner lacks realistic parole plans in that he  
22 does have any viable residential plans in the last  
23 county of legal residence, that being Los Angeles  
24 County, let alone in the state of California, your  
25 parole plans are in Oregon, and he does not have  
26 acceptable employment plans. Just to state that,  
27 **KENNETH DOWELL C-78669 DECISION PAGE 4 11/30/06**

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1 you know, you would find a job is not adequate.  
2 It's really very, very important, sir, that you  
3 have -- when you come to a panel, that you have  
4 very -- you know, as current letters as possible.  
5 Things change with people on the outside. One day  
6 people are here, the next day they may not be, so  
7 you want to have the most current letters of  
8 support to present to the panel, and make sure  
9 that they're very, very specific in what they are  
10 offering to you. So they have to be very specific  
11 about your housing and what does that mean, will  
12 you have your own room, are they providing  
13 transportation to you, are they providing  
14 financial support indefinitely to you so that you  
15 can transition? You know, make it as specific as  
16 possible. Also in terms of employment plans,  
17 provide letters that you are sending out to  
18 organizations inquiring about possible employment,  
19 and keep records of all that. And I've seen many  
20 inmates come in with a whole synopsis, where  
21 they've got it listed the date that they sent  
22 things out and when they received responses, who  
23 it went to, you know, and all different things.  
24 There's a lot of different things that you can do  
25 to show the panel that you're in control of your  
26 own destiny, along with who have you written to in  
27 KENNETH DOWELL C-78669 DECISION PAGE 5 11/30/06



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1 terms of halfway houses. We -- there are a lot of  
2 other inmates in your situation that do not have  
3 any support system, any family within the state of  
4 California or within -- you know, let alone in the  
5 last county of residence, but they have managed to  
6 reach out and try to find and line up various  
7 organizations that can help them, that can provide  
8 a roof over their head, and they've provided us

~~9 with documentation about that, and I'd also highly~~  
10 recommend that you don't just have one, that you  
11 have backup plans, because if one doesn't come  
12 through, what are your backup plans? Because, you  
13 know, one thing happens when there's a -- if and  
14 when you're granted a date, it does go through a  
15 very rigorous review process, everything has to be  
16 confirmed. So it's in your best interest to have  
17 backup plans. It would also be in your best  
18 interest to give evidence of what type of support  
19 network you are setting up for yourself on the

~~20 outside. What we look for, sir, is every possible~~  
21 thing that you've thought of for your success on  
22 the outside, because the last thing anybody here  
23 or yourself should want is for you to end up being  
24 incarcerated again and in violating anything, so  
25 in order for you to be successful, you need to  
26 make sure that you have everything set up on the

27 KENNETH DOWELL C-78669 DECISION PAGE 6 11/30/06

1 outside, safety nets, so to speak, so that should  
2 you end up in a situation where there are weapons  
3 there and there's drinking and stuff, that what do  
4 you have set up for yourself to make sure that you  
5 wouldn't fall back into a situation where you  
6 could lose control, get angry, and end up becoming  
7 violent. Regarding 3042 responses, the District  
8 Attorney of Los Angeles County has expressed  
9 rather vehemently their opposition to parole at  
10 this time. The panel makes the following  
11 findings. The prisoner needs documented self-help  
12 in order to face, discuss, understand and cope  
13 with stress in a nondestructive manner. Until  
14 progress is made, the prisoner continues to be  
15 unpredictable and a threat to others.  
16 Nevertheless, the prisoner should be commended for  
17 being disciplinary free for all these years, and  
18 also the fact that I believe it was Commissioner  
19 Filangeri stated back in January 18<sup>th</sup> of 1989 you  
20 completed a 12-month course in Operation and  
21 Maintenance of High Pressure Boilers, and plus,  
22 you should be commended for your recent  
23 re-involvement in vocational training. However,  
24 these positive aspects in your behavior do not  
25 outweigh the factors of unsuitability. In a  
26 separate decision the hearing panel finds that the  
27 **KENNETH DOWELL C-78669 DECISION PAGE 7 11/30/06**

1 prisoner has been convicted of murder and it is  
2 not reasonable to expect that parole would be  
3 granted at a hearing during the next three years.  
4 The specific reasons for this finding are as  
5 follows. The prisoner, again, committed the  
6 offense in an especially cruel manner, and again I  
7 refer back to what I read into the record from the  
8 Statement of Facts, that you took your common law  
9 ~~wife, supposedly against her will, in your vehicle~~  
10 and ended up confronting her, the man that she  
11 wanted to marry, I believe, ended up confronting  
12 him, taking a few shots at him with your handgun,  
13 and then reaching for a shotgun after he had his  
14 hands up and wanted to give up, and shooting him,  
15 and ended up killing him. Multiple victims were  
16 attacked, injured and/or killed in the same  
17 incident. Basically your common law wife,  
18 Pauline, was one of the victims, and obviously the  
19 deceased, Mr. Winnet. The offense was carried out  
20 ~~in a very dispassionate and/or calculated manner.~~  
21 It was carried out in a manner, which demonstrates  
22 an exceptionally callous disregard for human  
23 suffering, and the motive for the crime was  
24 inexplicable or very trivial in relation to the  
25 offense. It really was based on your jealousy and  
26 your unwillingness to give up on your common law  
27 KENNETH DOWELL C-78669 DECISION PAGE 8 11/30/06

1 wife and two children and let them go. The  
2 prisoner's had a history of criminality or  
3 misconduct that includes the public drunkenness,  
4 you know, your prior record, brandishing a  
5 firearm, drunken driving and pandering, and again,  
6 a history of unstable, tumultuous relationships  
7 with others, and this is evidenced by the claim of  
8 abuse by your common law wife, Pauline, and then  
9 your pandering conviction. Again, the recent  
10 psychological report dated May 2<sup>nd</sup>, 2006, and  
11 authored by Dr. Inaba, I-N-A-B-A, the  
12 improvements, there were a lot of improvements  
13 that -- within the new report as opposed to her  
14 2000 report, and again, both of these reports were  
15 done by the same doctor. There were many  
16 improvements, although not well supported, and  
17 basically suggests that your gains are recent and  
18 would require a longer period of observation and  
19 evaluation. Again, the prisoner has not completed  
20 the necessary programming, which is essential to  
21 his adjustment and needs additional time to gain  
22 such programming. So again, failed to  
23 participated and complete any documented  
24 self-help. Therefore, a longer period of  
25 observation and evaluation of the prisoner is  
26 required before the Board should find that the  
27 KENNETH DOWELL C-78669 DECISION PAGE 9 11/30/06

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1 prisoner is suitable for parole. The panel  
2 recommends that the prisoner remain disciplinary  
3 free; if available, upgrade vocationally and  
4 educationally; also if available, participate in  
5 documented self-help and therapy, again, if  
6 available. And I believe that concludes my  
7 reading of the decision. Commissioner --

8 DEPUTY COMMISSIONER FILANGERI: No, thank  
9 you.

10 PRESIDING COMMISSIONER ENG: -- Filangeri?  
11 Okay. Okay. This hearing is now over. The time  
12 is 1:18.

13 A D J O U R N M E N T

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23 PAROLE DENIED THREE YEARS

24 THIS DECISION WILL BE FINAL ON: MAR 30 2007

25 YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT

26 DATE, THE DECISION IS MODIFIED.

27 KENNETH DOWELL C-78669 DECISION PG 10 11/30/06

EXHIBIT C

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CERTIFICATE AND  
DECLARATION OF TRANSCRIBER

I, Berenice Billington, a duly designated transcriber, NORTHERN CALIFORNIA COURT REPORTERS, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total two in number and cover a total of pages numbered 1 - 97, and which recording was duly recorded at SAN QUENTIN STATE PRISON, at SAN QUENTIN, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of KENNETH DOWELL, CDC No. C-78669, on November 30, 2006, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated January 31, 2007, at Sacramento  
County, California.

*Berenice Billington*

\_\_\_\_\_  
Berenice Billington  
Transcriber  
NORTHERN CALIFORNIA COURT REPORTERS

DOWELL, Kenneth C-78669

May 2, 2006

**PSYCHOSOCIAL EVALUATION  
FOR THE BOARD OF PRISON TERMS  
JUNE 2006 LIFER HEARING  
SAN QUENTIN STATE PRISON**

**PSYCHOSOCIAL ASSESSMENT**

- I. Identifying Information: Mr. Dowell is a 59 year old (DOB 10-6-46), Caucasian male who is serving a Life sentence for murder in the second degree. He is presently serving a 15-year to life sentence at San Quentin State Prison. This report is based on a review of Mr. Dowell's central files, medical record and a face-to-face interview conducted in the staff offices of San Quentin State Prison. Mr. Dowell was informed of the limits of confidentiality in that information provided would be included in a report to the Board of Prison Terms. Mr. Dowell stated that he understood this and was able to demonstrate an understanding of the purpose of the interview. He denied any need for assistance or for any adaptive aides and stated that he was fully able to participate in the interview. Only Mr. Dowell and the examiner were present at the interview.

Mr. Dowell's developmental history, family history, psychosocial development and sexual orientation, military history, educational history, employment and income history, and substance abuse history have been thoroughly reviewed and presented in previous reports and will not be repeated here. The reader is referred to the June 2002 report by this examiner for this information.

II. Plans if Granted Release:

A. Housing: Mr. Dowell would be able to live with his aunt if he is paroled. She would be willing to provide housing for him until he is able to provide his own housing. If he were allowed to parole out of state, he would return to the state of Oregon where his family owns property. He believes that he would be able to work out an arrangement with his brother to live in a house that his brother owns.

B. Employment: Mr. Dowell belongs to the Millwright's Union and considers himself to be employable as a Millwright. His brother works for Weyerhaeuser as an electrician and will help Mr. Dowell get employment with that company. Mr. Dowell is also in the process of researching companies in the Los Angeles area that might have jobs for which he would be qualified.



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Mr. Dowell would need to have approximately \$5,000 worth of tools in order to start working. He believes that he might be eligible for assistance with this from the state Employment Development Department or from his family.

C. Social Support/Services: Mr. Dowell plans to organize his social life around participation in Alcoholics Anonymous and his church. He has been participating in LDS church activities at San Quentin. He stated that he has resumed participation in religious activities after an absence of many years. He attended the Episcopal Church as a child but did not attend church after the age of fifteen.

Another inmate approached Mr. Dowell and invited him to attend an LDS group in San Quentin. Mr. Dowell reported that he had been feeling that something was missing from his life. Since attending the group, he has begun to feel more complete. He plans to become baptized when he is out of prison. Since joining this group he has given up all swearing and the use of tobacco, and caffeine and attends a group that provide guidance for living a Christian life.

Mr. Dowell is a single man and has no romantic relationships at the present time. He had a long-term relationship with a woman who died of stomach cancer in 2003. She was instrumental in getting Mr. Dowell involved in AA. after she observed that he had a drinking problem. They maintained a correspondence and close friendship for 19 years before she passed away.

### CLINICAL ASSESSMENT

#### III. Current Mental Status/Treatment Needs:

Mr. Dowell appeared to be his stated age. He was well groomed and dressed in standard CDC inmate clothing. He appeared to be fully alert, and was oriented in all spheres. He was able to spell WORLD forward and backwards, in spite of having a history of dyslexia. He stated that he still has difficulty sounding out some words when reading. His thought was coherent, linear and logical with no evidence of thought disorder. His intellectual functioning appeared to be in the average range. He seemed quite nervous at first and stated that the interviews caused him to feel that way. Mood was dysthymic with some brightening as he became more engaged in the interview. Mr. Dowell was soft-spoken and spoke with some hesitancy. He is a taciturn man, not given to elaboration of speech. He reported no vegetative signs of depressed mood such as loss of appetite, fatigue or poor sleep. He became sad and emotional when discussing the death of a close woman friend. He denied any suicidal or homicidal thoughts. His judgement appeared to be adequate for most situations. He demonstrated some capacity for insight.

#### CURRENT DIAGNOSTIC IMPRESSIONS:

AXIS I: V62.82 Bereavement  
305.00 Alcohol Abuse (in controlled environment)  
V71.01 Adult Antisocial Behavior (by history)

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AXIS II: V71.09 No contributory Personality Disorder (avoidant, obsessive-compulsive traits)  
 AXIS III: Arthritis, allergies  
 AXIS IV: Stressors: Incarceration, Loss of Social Support  
 AXIS V: GAF = 78

#### IV. Assessment of Dangerousness:

The following is a risk assessment and not intended to predict future dangerousness with complete accuracy. A risk assessment is based on enumeration of factors found to be statistically associated with a greater likelihood of violent behavior. Some individuals found to have a rating of low risk for violence, become violent, while individuals who have factors suggesting high risk for violence, may never commit a future violent act.

A. Violence History: As presented previously, Mr. Dowell grew up in an environment in which he had ready access to firearms. He learned to handle guns at a young age. Guns were seen as a necessary tool for ranch work. He had a weapons charge prior to his commitment offense. His commitment offense involved the shooting of his victim.

As an older man, Mr. Dowell no longer feels a need to handle conflict situations aggressively. As stated by Mr. Dowell, "It's a macho thing when you're younger. You can handle it yourself. As you gain maturity, you can defuse situations." He denied that he would need to use a weapon to deal with any situation.

When asked what he would do if someone tried to harm his family member, he stated, "If you try to hurt my family, I'm going to try to stop you. I'm not going to murder you or hurt you. If you can't stand between them and stop it, you can call the police. I wouldn't handle it myself. You would use non-violent means."

#### B. In a Controlled Environment:

Mr. Dowell has remained disciplinary free since his last appearance before the Board. Based in his institutional record and present functioning, he would be expected to be at low risk of violence in a controlled environment.

#### C. If Released to the Community:

Mr. Dowell has the following static risk factors: a history of alcohol abuse, male gender, male victim, previous criminality, past use of a weapon, and victim injury. He has no present dynamic risk factors such as recent loss of control or impulsive behavior, lack of compassion, anger, or paranoid or violent thoughts.

Mr. Dowell readily admits that as a younger man, he "wasn't a model citizen." He now seems to feel ashamed of the things he did as a younger man. He recounted how he suggested that his tenant prostitute herself in order to pay her rent and stated that for him it was "all about the money." He believes that he now knows much more about relationships and sees things differently since he stopped drinking. He would not expect to have a problem with relapse into the use of alcohol as he "hasn't thought about drinking for years."

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In the community his plan for avoiding relapse would be to associate with people who don't drink; go to non-alcoholic social events, and avoid going places where alcohol is served.

Mr. Dowell has made a commitment to live a clean and sober lifestyle and has insight into problems of judgement that were caused by his use of alcohol. He comes from a family that has a history of alcoholism.

Although he owned his own business in the past, Mr. Dowell plans to be an employee in the future. He still sees himself as working long days as he states that he was "raised that way. In order to take care of yourself and be self-sufficient, you must work." He recalled that from the age of 10 or 11, if he was not in school, he was working. His leisure time would be spent in church or AA sponsored activities. He also has hobbies such as wood working that he would be interested in pursuing. His plans for how to use his time if paroled seem to be constructive and realistic.

#### V. Clinician Comments and Summary:

There have been some changes in Mr. Dowell's presentation since this examiner last evaluated him in 2000. Mr. Dowell has a greater understanding of the impact of his crime on the lives of others, including the victim's family and his own children. He has one son who is in prison and a son and a daughter with whom he has very little contact.

He now acknowledges that jealousy as well as alcohol was a factor in his crime. He has previously contended that the crime occurred when he was trying to help his former common-law wife get her vehicle back from her fiancé. Mr. Dowell continues to relate that he does not believe that he would have sought to harm the victim had the victim not been armed with a gun when he exited his vehicle, and that he therefore acted in self-defense. His account is not consistent with eyewitness testimony.

Mr. Dowell is not a person who is comfortable talking about or expressing his feelings. He acknowledges that he was capable of violence in the past, but no longer has a need to display the same level of aggression.

It would seem that in the intervening years, Mr. Dowell has participated in self-help and religious activities that have given him the skills to conduct himself in a sober and non-violent manner across settings. He regularly attends AA and is on the waiting list for Kairos.

Mr. Dowell has suffered the loss of a close friend and has come to see the importance of accepting help from others. He continues to be hard working, mild-mannered and socially compliant. With greater maturity, it would be expected that a man would have more consistent behavioral control and a lessening of anger. This would seem to be the case with Mr. Dowell. In addition, his identification with pro-social groups such as AA and the LDS church is also a positive change that would further lessen any risk of future violent behavior. Overall, his risk of violent recidivism would be low at the present time, provided he remains abstinent from the use of alcohol and drugs.

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Any return to the use of intoxicants would change his prognosis. Mr. Dowell presently experiences some emotional distress, subsequent to the death of someone who was very important to him. He has support persons in the institution, with whom he can discuss this loss. There is no indication that his emotional distress would increase the likelihood that he would engage in criminal or violent acts. If anything, this loss has caused Mr. Dowell to seek support from others in a manner that would further lessen the risk of future violence.



5-2-06

Michel Lynn Inaba, Ph.D.  
Contract Psychologist

Date

EXHIBIT D

1 viable residential plans in the last county of  
2 legal residence, and he does not have acceptable  
3 employment plans. And the Hearing Panel notes that  
4 responses to 3042 notices indicate an opposition to  
5 a finding of parole suitability, specifically by  
6 the District Attorney of Los Angeles County. We do  
7 want to commend the prisoner for his certification  
8 for operating boilers, his pre-GED class, his  
9 modern metal cutting, and an Alternatives to  
10 Violence class that he had taken, and a self-esteem  
11 program, and human growth and development. He is  
12 also receiving above average work reports for his  
13 work. However, these positive aspects of his  
14 behavior do not outweigh the factors of  
15 unsuitability. Mr. Dowell, this is going to be a  
16 two-year denial at this time. You -- It has been  
17 recommended since 1993 and in 2000 by the doctor,  
18 by prior Panels that you continue to stay in AA and  
19 get some self-help. And that has not occurred. In  
20 a separate decision, the Hearing Panel finds it is  
21 not reasonable to expect that parole would be  
22 granted at a hearing during the following two  
23 years. And the specific reasons are as follows,  
24 that the prisoner committed the offense in a very  
25 cruel manner. Specifically that he sought out the  
26 victim and was prepared to confront him as he had a  
27 KENNETH RAY DOWELL C-78669 DECISION PAGE 5 7/17/03

1 violence prevention strategies,  
2 victim awareness, strategies for  
3 coping with dyslexia, relationship  
4 skills, and substance abuse relapse  
5 prevention. Mr. Dowell would also  
6 benefit from intervention such as  
7 psychotherapy, which would offer the  
8 opportunity to increase his insight  
9 into his own impulses and behavior."

10 And it was also noted in the psychiatric report  
11 that was prepared in September of 1993 by  
12 Dr. Dupre, D-U-P-R-E, that it was recommended that  
13 the inmate continue vocational training, self-help  
14 group participation, upgrading his education, and  
15 disciplinary-free programming, which were all  
16 thought to be helpful towards proper  
17 resocialization into society, and internalization  
18 of traditional societal values. Continuing his AA  
19 group meetings is strongly encouraged. In the  
20 event that the subject is paroled, a comprehensive  
21 outpatient substance abuse treatment program should  
22 be instituted within the treatment plan. And as  
23 was noted in the hearing today, the inmate has not  
24 been participating in AA since 1996, and he has no  
25 current self-help programs. The prisoner does lack  
26 realistic parole plans in that he does not have  
27 KENNETH RAY DOWELL C-78669 DECISION PAGE 4 7/17/03

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1 offense, and I think you need to read all the  
2 reports, specifically the transcript, so that  
3 you're better prepared about what you say about  
4 your crime the next time you come before this  
5 Board. I wish you good luck.

6 PRESIDING COMMISSIONER DALY: And I do want  
7 to state, try to get the information out. You need  
8 to start preparing right now on your parole plans.  
9 Even if a hearing is postponed, anything that comes  
10 in between now and your next parole hearing is  
11 usable. So you need to really try to get an answer  
12 back from those. See what you can do about getting  
13 an interstate transfer if that is your wish to  
14 transfer up to Oregon. And I know that that is a  
15 possibility. But that's going to be very  
16 important. We'll conclude the hearing. It is  
17 4:35.

18 INMATE DOWELL: Thank you.

19 ---oOo---

20

21

22

23

24

25 PAROLE DENIED TWO YEARS

26 FINAL DATE OF THIS DECISION

OCT 15 2003

27 KENNETH RAY DOWELL C-78669 DECISION PAGE 8 7/17/03



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CERTIFICATE AND  
DECLARATION OF TRANSCRIBER

I, APRIL ALLEN, a duly designated transcriber, CAPITOL ELECTRONIC REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 through 68, and which recording was duly recorded at CALIFORNIA STATE PRISON, SAN QUENTIN, at SAN QUENTIN, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of KENNETH RAY DOWELL, CDC No. C-78669, on JULY 17, 2003, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated July 30, 2003, at Sacramento County, California.


  
\_\_\_\_\_  
April Allen  
Transcriber  
CAPITOL ELECTRONIC REPORTING

EXHIBIT E

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DEPT 100

Date:	OCTOBER 26, 2007	Judge	A. ALDANA	Deputy Clerk
Honorable:	STEVEN R. VAN SICKLEN	Bailiff	NONE	Reporter
	NONE			

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(Parties and Counsel checked if present)

BH004727	
In re,	Counsel for Petitioner:
KENNETH DOWELL,	
Petitioner,	Counsel for Respondent:
On Habeas Corpus	

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Nature of Proceeding: ORDER RE: PETITION FOR WRIT OF HABEAS CORPUS

The Court has read and considered Petitioner's application for a Writ of Habeas Corpus filed on June 12, 2007. Having independently reviewed the record, giving deference to the broad discretion of the Board of Parole Hearings ("Board") in parole matters, the Court concludes that the record contains "some evidence" to support the Board's finding that Petitioner presents an unreasonable risk of danger to society and is therefore not suitable for release on parole. See Cal. Code Reg. tit., 15, § 2402; *In re Rosenkrantz* (2002) 29 Cal. 4<sup>th</sup> 616, 667.

Petitioner was received in the Department of Corrections on December 30, 1983, after a conviction for second degree murder. He was sentenced to 15 years to life imprisonment. His minimum parole eligibility date was July 6, 1992. The record reflects that on March 24, 1982, Petitioner killed the victim, the boyfriend of his ex-common law wife, during a shoot out between Petitioner and the victim.

The Board found Petitioner unsuitable for release on parole after a parole consideration hearing held on November 30, 2006. Petitioner was denied parole for three years. The Board concluded that Petitioner was unsuitable for release on parole and would pose an unreasonable risk of danger to society and a threat to public safety. The Board based its decision on several factors including the circumstances of the commitment offense, Petitioner's criminal history, his unstable social history, his insufficient participation in self-help programs, and his lack of viable parole plans.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES****DEPT 100**

Date: OCTOBER 26, 2007

Honorable: STEVEN R. VAN SICKLEN  
NONEJudge A. ALDANA  
Bailiff NONEDeputy Clerk  
Reporter

(Parties and Counsel checked if present)

BH004727

In re,  
KENNETH DOWELL,  
Petitioner,  
On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

The Court finds that there is some evidence to support the Board's finding that the commitment offense was committed in an especially cruel manner in that multiple victims were attacked, injured or killed, the offense was carried out in a dispassionate and calculated manner, the offense was carried out in a manner that demonstrated an exceptionally callous disregard for human suffering, and the motive for the crime was trivial in relation to the offense. Cal. Code Regs., tit. 15, § 2402(c)(1). The record reflects that at the time of the commitment offense, Petitioner was separated from his common law wife (ex-wife). The ex-wife was dating another man (boyfriend), who she planned to marry. Petitioner was jealous and angry with the boyfriend, because Petitioner thought that the boyfriend was coming between Petitioner and his ex-wife and children. On March 24, 1982, Petitioner entered the residence of his ex-wife. Petitioner stated that he was going to kill his ex-wife and her boyfriend. Petitioner forced his ex-wife into his vehicle. The two drove around searching for the boyfriend. The boyfriend happened to be following Petitioner. Petitioner stopped his vehicle and retrieved a handgun located beneath the seat. Petitioner told the boyfriend that he was going to kill him. Petitioner and the boyfriend fired shots. When Petitioner's handgun no longer had any ammunition, he retrieved a shotgun from his vehicle and continued to shoot at the boyfriend. The boyfriend was shot several times and died from the wounds. After Petitioner shot the boyfriend, the ex-wife ran away from the scene.

The Court finds that there is some evidence to support the Board's finding that Petitioner's previous criminal record showed an escalating pattern of criminal conduct. The Board may properly consider Petitioner's criminal history as a factor relevant to determining whether Petitioner is suitable

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DEPT 100

Date: OCTOBER 26, 2007

Honorable: STEVEN R. VAN SICKLEN

Judge

A. ALDANA

Deputy Clerk

NONE

Bailiff

NONE

Reporter

(Parties and Counsel checked if present)

BH004727

In re,

KENNETH DOWELL,

Petitioner,

Counsel for Petitioner:

On Habeas Corpus

Counsel for Respondent:

for release on parole. Cal. Code Regs., tit. 15, § 2402(b). The record reflects that Petitioner was convicted of public drunkenness, possession of narcotics, brandishing a firearm, drunk driving, and pandering. Petitioner was on probation for the pandering offense when he committed the commitment offense. Petitioner has failed to profit from previous grants of probation by committing new offenses. Thus, the record contains some evidence that Petitioner was undeterred by the earlier attempts to correct his criminality.

In making its determination, the Board also noted that Petitioner has previously abused his ex-wife during their relationship. The Court finds that there is some evidence to support the Board's finding that Petitioner has a history of unstable social relationships. Cal. Code Regs., tit. 15, § 2402(c)(3).

The Court finds that there is some evidence to support the Board's finding that Petitioner has not sufficiently participated in self-help programs. The Board noted that Petitioner has not participated in any recent self-help programs. In addition, Petitioner has not upgraded academically as recommended by the Board during the last parole hearing. The record does reflect that Petitioner has participated in several types of vocational training.

The Court finds that there is some evidence to support the Board's finding that Petitioner lacks realistic parole plans. See Cal. Code Regs., tit. 15, § 2402(d)(7). The record reflects that Petitioner does not have a place to reside in the last county of legal residence. Petitioner's proposed parole plans consist of residing with his brother in Oregon. In addition, Petitioner does not have an offer of

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

DEPT 100

Date:	OCTOBER 26, 2007	Judge	A. ALDANA	Deputy Clerk
Honorable:	STEVEN R. VAN SICKLEN	Bailiff	NONE	Reporter
	NONE			
(Parties and Counsel checked if present)				
	BH004727			
	In re,		Counsel for Petitioner:	
	KENNETH DOWELL,			
	Petitioner,		Counsel for Respondent:	
	On Habeas Corpus			

employment. The lack of housing and employment offers reflect that Petitioner is not yet suitable for parole.

The Board considered several favorable factors, including Petitioner's disciplinary record and his participation in numerous vocational programs and Alcoholic Anonymous. However, the Board found that these positive factors did not outweigh the factors tending to show unsuitability.

Although the denial of a parole date based solely on the nature of the commitment offense after a long period of incarceration may raise serious questions involving an inmate's liberty interest in parole, this is only true where the inmate has shown exemplary behavior and considerable evidence of rehabilitation. *Biggs v. Terhune* (9th Cir. 2003) 334 F.3d 910, 917. Here, the Board did not base its decision to deny parole solely on the commitment offense, but also weighed Petitioner's prior criminal record, his unstable relationship with his common law wife, his limited participation in self-help programs, and his lack of viable parole plans.

Petitioner argues that his due process rights have been violated, because the Board failed to specifically address every factor enumerated in California Rule of Regulation, title 15, section 2402, subdivisions (c) and (d). This argument is without merit. Every factor considered by the Board need not be stated, especially if it is not persuasive. *In re Ramirez* (2001) 94 C.A. 4<sup>th</sup> 549 (disapproved on other grounds by *In Re Dannenberg* (2205) 34 Cal. 4<sup>th</sup> 1061).

Based on the above factors, the Court finds that there is "some evidence" in the record to support the Board's determination that Petitioner presents an unreasonable risk of danger to society and is therefore not suitable for release on parole. Penal Code § 3041(b).

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT 100

Date: OCTOBER 26, 2007

Honorable: STEVEN R. VAN SICKLEN  
NONE

Judge A. ALDANA  
Bailiff NONE

Deputy Clerk  
Reporter

(Parties and Counsel checked if present)

BH004727

In re,

KENNETH DOWELL,

Petitioner,

On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

Accordingly, the petition is denied.

A true copy of this minute order is sent via U.S. Mail to the following parties:

Kenneth Dowell  
C-78669  
San Quentin State Prison  
San Quentin, California 94964

Department of Justice- State of California  
Office of the Attorney General  
110 West A Street, Suite 1100  
San Diego, California 92101  
Attn: Ms. Cynthia Lumely

<b>SUPERIOR COURT OF CALIFORNIA</b> <b>COUNTY OF LOS ANGELES</b>		Reserved for Clerk's File Stamp  <div style="text-align: center;"> <b>FILED</b>          LOS ANGELES SUPERIOR COURT           NOV 19 2007          BY <u><i>Alexandre J. Aldana</i></u> DEPUTY       </div>
COURTHOUSE ADDRESS: Clara Shortridge Foltz Criminal Justice Center 210 West Temple Street Los Angeles, CA 90012		
PLAINTIFF/PETITIONER:  KENNETH DOWELL		
<b>CLERK'S CERTIFICATE OF MAILING</b> CCP, § 1013(a) Cal. Rules of Court, rule 2(a)(1)		CASE NUMBER:  BH004727

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served:

- |  |  |
|--|--|
| <input type="checkbox"/> Order Extending Time            | <input checked="" type="checkbox"/> Order re: Writ of Habeas Corpus Denied                   |
| <input type="checkbox"/> Order to Show Cause             | <input type="checkbox"/> Order   |
| <input type="checkbox"/> Order for Informal Response     | <input type="checkbox"/> Order re:   |
| <input type="checkbox"/> Order for Supplemental Pleading | <input type="checkbox"/> Copy of Petition for Writ of Habeas Corpus for the Attorney General |

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to the cause. I served this document by placing true copies in envelopes addressed as shown below and then by sealing and placing them for collection; stamping or metering with first-class, prepaid postage; and mailing on the date stated below, in the United States mail at Los Angeles County, California, following standard court practices.

November 19, 2007  
 DATED AND DEPOSITED

JOHN A. CLARKE, Executive Officer/Clerk

By: *Alexandre J. Aldana*, Clerk  
 Alexandre J. Aldana

Kenneth Dowell  
 C-78669  
 San Quentin State Prison  
 San Quentin, California 94964

Department of Justice- State of California  
 Office of the Attorney General  
 110 West A Street, Suite 1100  
 San Diego, California 92101  
 Attn: Ms. Cynthia Lumely



IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

COUNTY OF ANGELES - SECOND DIST.  
**FILED**  
JAN 08 2008  
JOSEPH A. LANE Clerk  
Z. HERALDEZ Deputy Clerk

In re

KENNETH RAY DOWELL

on

Habeas Corpus.

B204310

(Los Angeles County  
Super. Ct. No. A454394)  
(Steven R. Van Sicklen, Judge)  
ORDER

BY THE COURT:

The petition for writ of habeas corpus, filed December 13, 2007, has been read and considered. Sufficient evidence supports the Board of Prison Terms denial of parole. (*In re Dannenberg* (2005) 34 Cal.4th 1061, 1080, 1082; *In re Rosenkrantz* (2002) 29 Cal.4th 616, 677; see *Biggs v. Terhune* (9th Cir. 2003) 334 F.3d 910, 917.) Accordingly, the petition is denied.

ATTORNEY GENERAL  
SAN DIEGO  
2008 JAN 22 AM 10:23